VERIZON - HICKSVILLE

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CREATED ON 7/23/2002 11:52 AM

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1

[illegible]

IMPORTANT

IMPORTANT

Amendment No. 1 to Agreement dated the 15th day of October, 1957.

THIS AGREEMENT made as of the 27th day of November, 1958

B E T W E E N :

ATOMIC ENERGY OF CANADA LIMITED (hereinafter referred to as "the Company")

OF THE FIRST PART

- and -

McMASTER UNIVERSITY (hereinafter referred to as "the University")

OF THE SECOND PART

WHEREAS by an agreement made between the parties hereto as of the 15th day of October, 1957, (hereinafter referred to as "the Original Agreement") the Company agreed to lease to the University and the University agreed to lease from the Company enriched uranium to be contained in fuel elements for use in the research reactor referred to in the Original Agreement, upon the terms and conditions in the Original Agreement set out, including a provision whereby the University agreed to indemnify and save harmless the Company and the Government of Canada against liabilities (including third party liability) arising out of the production, preparation, ownership, lease or the possession and use of the enriched uranium contained in fuel elements leased thereunder or other materials produced therein;

AND WHEREAS by Vote No. 665 of the Appropriation Act, No. 5, 1958, the Parliament of Canada authorized, subject to the approval of the Governor in Council, execution and performance of an agreement between Atomic Energy of Canada Limited and McMaster University, amending the Original Agreement so as to provide that the University shall carry insurance satisfactory to the Company in the sum of

$500,000.00 against liability to third parties for nuclear hazards (as defined in the agreement) arising out of the possession or use of such enriched uranium and that the Company shall indemnify the University and its suppliers against such liability in excess of that amount;

AND WHEREAS the Governor in Council, by Order-in-Council No. P.C. 1958-1613 of 27th November, 1958, has, pursuant to the said Vote, approved the execution and performance of this agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH and it is hereby agreed by and between the parties hereto as follows:

1. In this agreement

(a) "nuclear hazards" means the radioactive, toxic, explosive or other hazardous properties of any fissionable substance (as the term "fissionable substance" is defined in the Atomic Energy Regulations of Canada approved by Order-in-Council P.C. 1954-1643 of 28th October, 1954) or any product of irradiation of or by any such fissionable substance;

(b) "supplier" means any person other than the University who may be liable to third persons on account of having furnished articles, materials or services for the construction, maintenance or operation of the said reactor.

2. The University shall, forthwith after the execution and delivery of this agreement, place, and shall, during continuance of operation of the said reactor, maintain insurance satisfactory to the Company in the amount of Five Hundred Thousand Dollars ($500,000.00) against liability to third parties based upon injury to or death of persons or damage to property due to nuclear hazards and

arising in Canada out of the production, preparation, ownership, lease or the possession and use of the enriched uranium contained in fuel elements leased under the Original Agreement or other materials produced therein, and shall cause Her Majesty the Queen in right of Canada, the Company, and the suppliers, to be named as assureds in or covered by every such policy of insurance, and shall, upon the occurrence of any event which reduces or may reduce the limit of liability provided by said insurance, promptly apply for reinstatement of the said amount, and make all reasonable efforts to obtain such reinstatement; and every policy or other document evidencing such insurance shall provide that it may not be cancelled or reduced except upon ten days' notice to the Company, and the University shall deliver or cause to be delivered to the Company a certified copy of each such policy or document forthwith after its issue.

3. Notwithstanding anything in the Original Agreement contained, the Company shall indemnify and save harmless the University and the suppliers, as their respective interests may appear, against liability to third parties in excess of the said sum of Five Hundred Thousand Dollars ($500,000.00) based upon injury to or death of persons or damage to property due to nuclear hazards and arising in Canada out of the production, preparation, ownership, lease or the possession and use of the enriched uranium contained in fuel elements leased under the Original Agreement or other materials produced therein; provided that, unless otherwise agreed by the parties hereto, the Company shall assume and conduct the defence of all claims, actions, suits and proceedings based upon such injury, death or damage as aforesaid in any case where it appears to the Company that it may be required to

make indemnity payments hereunder; and provided further that each party hereto and each supplier shall keep the other party or the parties hereto fully and promptly informed of the making or bringing of all claims, actions, suits and proceedings based upon such injury, death or damage as aforesaid and of the steps taken or which ought to be taken in the prosecution or defence thereof, and shall cooperate fully in the defence thereof.

4. The University shall be deemed to be a trustee or agent for the suppliers and each of them for the purposes of this agreement, and may act on behalf of them or each or any of them with respect to any matter relating to this agreement.

5. Neither this agreement nor any interest therein nor claim thereunder may be assigned or transferred without the prior written consent of the Company, and any assignment or transfer made without such consent shall be void.

6. The Company may, by notice to the University, terminate or suspend the operation of this agreement (except as to any obligation accrued thereunder prior to such termination) upon the University ceasing to be the holder of a valid license to operate the said reactor or upon the amount of insurance maintained by the University as hereinbefore provided falling below the said amount of Five Hundred Thousand Dollars ($500,000.00) and not being reinstated within ten days; and upon such revocation, or during such suspension, the provisions of the Original Agreement shall apply as if this agreement had not been made.

7. The Original Agreement shall be deemed to have been amended in such manner and to such extent as is necessary

to give full effect to the provisions of this agreement and subject thereto the Original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF the parties have caused these presents to be signed by their proper officers authorized in that behalf under their respective corporate seals.

SIGNED, SEALED AND DELIVERED in the presence of

_____

ATOMIC ENERGY OF CANADA LIMITED
By

_____

_____

SIGNED, SEALED AND DELIVERED in the presence of

_____

McMASTER UNIVERSITY
By

_____
Chairman, Executive Committee

_____
Bursar

4

		Type of fuel element and quantity	Type of reactor	Price	Indemnity
	Centre d'etude l'Energie Nucleaire (CEN), majority owned by Belgian Govt.	BR-2, 60 elements, Uranium-Aluminum, 90% enriched. 20 elements to be used in a critical assembly in Mol-Dome, Belgium, and 40 additional elements for use in reactor itself.	Belgium research and test reactor (BR-2) which NDA is designing and building for CEN, light water cooled, beryllium moderated. Rated capacity 25-30 thermal megawatts.	$ 60,000	Indemnity and Waiver of Consequential Damages from CEN, an agency of the Belgian Government. See Appendix A.
	Atomic Energy of Canada, Ltd., Chalk River, Ontario	40 elements, 90% enriched, flat plate type.	Pool Test Reactor. Rated capacity of 10 thermal megawatts	$ 28,164	Indemnity from AECL (a company organized under the Canadian Atomic Energy Control Act and acting as an agent of Her Majesty). See Appendix B.
	McMaster University, Ontario.	25 standard fuel elements, 90% enriched. 2 partial fuel elements, 90% enriched. 1 control rod assembly for 18 plate fuel elements, 90% enriched. 1 dummy element, 18 plate.	Research reactor designed and installed by AMF Atomics (Canada, Ltd.), light-water swimming pool research reactor. Rated capacity of 20 thermal megawatts.	$ 22,105	Indemnity from McMaster and from Atomic Energy of Canada, Ltd. Waiver of Consequential Damages from McMaster. (AECL)(see above). See Appendix C.
	Commissariat a l'Energie Atomique, (CEA) (1st job)	56 standard elements with 12 active plates, which contain approximately 178 GM of U-235. 2 elements with 4 active plates, containing about 59.3 GM of U-235. 2 elements with 2 active plates containing about 29.6 GM of U-235. 4 movable plate elements, charges varied from 29.6	Three swimming pool type reactors (exposition reactor, Triton and Melusine) none exceeding rated capacity of 1 1/2 thermal megawatts.	$ 63,970	Indemnity from CEA (roughly the equivalent of the French Atomic Energy Commission). See Appendix D.

COUNTRY	CUSTOMER	TYPE OF FUEL ELEMENT AND QUANTITY	TYPE OF REACTOR	CONTRACT PRICE	REMARKS
	Commissariat a l'Energie Atomique,(CEA)	to [illegible] of U-235. 12 control elements containing about 10 Gm of U-235.			
	(1st job) Cont'd.	TOTAL OF UC ELEMENTS			
France	Commissariat a l'Energie Atomique, (CEA)	7 hollow converter tubes aluminum clad, 1.4% enriched.	Research and test reactor, moderated and cooled by heavy water having a thermal output of 15 megawatts.	$2,000	[illegible] Commissariat a l'Energie Atomique (CEA) [illegible]
	(2nd job)				
Israel	Israel Atomic Energy Commission	26 standard elements, 90% enriched uranium. 2 control elements, 90% enriched uranium. 2 partial elements, 90% enriched uranium.	Swimming pool type research reactor. Rated capacity of 1 thermal megawatts	$35,000	Indemnity and Waiver of Consequential Damages from Israel. See Appendix F.
Italy	Comitato Nazionale Per le Ricerche Nucleari (CNRN)	30 fuel elements enriched to 20% uranium metal 90%.	CNRN research and test reactor moderated and cooled by heavy water with a potential thermal output of 5 megawatts.	$23,000	Indemnity and Waiver of Consequential Damages from Comitato Nazionale per le Ricerche Nucleari (a public agency of the Government of Italy). See Appendix G
Netherland	Reactor Centrum Nederland (RCN) in Petten, Holland	62 Flat plate fuel elements, 90% enriched	Tank type - light water cooled research and test reactor. Rated capacity of 20 thermal megawatts.	$30,562	Indemnity from Reactor Centrum Nederland (RCN) including property of RCN. (A foundation of the Netherlands Government owned partially by the Government and partially by the other private Dutch Companies.) See Appendix H.

CUSTOMER	TYPE OF FUEL ELEMENT AND QUANTITY	TYPE OF REACTOR	CONTRACT PRICE	UNCERTAINTY
Junta de Energia Nuclear	32 flat [illegible] type elements of 20% enrichment.	Reactor Portuguesa de Investigacao, a pool-type research reactor at Lisbon. Rated capacity 1 megawatt.	$33,910	Indemnity and waiver of Consequential damages from Junta de Energia Nuclear (roughly equivalent of our A.E.C.). See Appendix A.
Aktiebolaget Atomenergi	228-14 plate elements and 16 - 14 plate control elements, 90% enriched and plate type similar to MTR elements.	Research and test reactor, light water moderated and cooled with a rated thermal output of 30 megawatts.	$161,000	The terms have not yet been worked out, but it is likely that we will receive a guaranty from Aktiebolaget Atomenergi, a corporation owned jointly by the Swedish Government and private industry. In addition, we understand that there will probably be available to us the benefits of a $10,000,000 facility policy to be obtained by Aktiebolaget Atomenergi.

$456,416 - Total

Cancellation fee → 12,000

$468,416

December 11, 1959

Mr. H. M. Cohen
Sylvania-Corning Nuclear Corporation
Bayside, Long Island
New York

Dear Howard:

This will confirm our 'phone conversation of this date relative to the nuclear energy liability coverage.

Liberty Mutual has requested that you provide copies of the indemnity agreement for the Portugal Reactor, Appendix I and the French indemnity agreement, Appendix D, since the copies they received were not legible. They are also requesting a copy of the Swedish indemnity agreement, when available.

In addition to the foregoing, I am quoting from their letter to us with respect to additional data which they have requested.

> "We will also need to know, in regard to type and quantity of fuel elements, the size of the individual elements and the quantity of equivalent U 235 contained.
>
> The answers to the following questions are also pertinent and will have influence on the rate promulgation:
>
> 1. Are the individual contracts with the reactor operator, with the general contractor or with some subcontractor. Each contract should be specified separately.
>
> 2. Are materials (fuel elements) already being supplied on one or more of these contracts? If so, is coverage to be made retroactive?

3. Actual location of Reactor site, as near as possible.

4. Will you have any employees at the job site for any of these contracts?

5. Have these contracts been reviewed by your Legal Department or some other qualified legal firm that is familiar with the legal requirements in each of the various countries involved?

6. Does the indicated price for each contract cover fabrication work only?"

It is my understanding that Liberty has already begun work on preparation of requests for coverage and rate promulgations and, with the foregoing information, they will be able to complete the work as the initiating carrier.

Very truly yours,

SYLVANIA ELECTRIC PRODUCTS INC.

R. S. Gyory
Insurance Manager

RGS:PMK

Atlanta
Birmingham
Boston
Charlotte
Chicago
Cleveland
Dallas
Denver
Detroit
Hartford
Honolulu
Houston
Los Angeles
Miami
Minneapolis
New Orleans
New York
Philadelphia
Phoenix
Pittsburgh
Portland
Richmond
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Seattle
Wilmington
Calgary
Edmonton
Montreal
Quebec
Toronto
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Winnipeg

~~BCATE~~ ~~PAT~~ Jim

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95 WALL ST., NEW YORK, N.Y. 10005
TEL 701-7500 AREA CODE 212

March 16, 1983

Mr. James H. Doherty, Manager
Corporate Insurance
GTE Corporation
One Stamford Forum
Stamford, Connecticut 06904

Dear Jim:

Pursuant to your discussions with Dave Peck concerning nuclear liability, Dave asked us to provide you with a brief explanation of the nuclear exposure.

Under certain conditions, the Broad Form Nuclear Exclusion (BFNE) which attaches to all Comprehensive General Liability policies may remove liability coverage for a nuclear incident. There are three circumstances for which Paragraph 1 of the BFNE removes coverage. If GTE is an insured under a nuclear energy liability policy but for its termination upon the exhaustion of its liability limits (an explanation of how GTE would be an insured under this policy follows), then coverage for damages resulting from the nuclear energy hazard is removed. If the nuclear incident is one for which any person or organization is required by the Atomic Energy Act of 1954 (as amended) to maintain financial protection, coverage is likewise removed. Or, if GTE is entitled (or would have been entitled absent the CGL) to government indemnity, the BFNE would act to nullify liability coverage. Because all nuclear reactors must maintain financial protection and/or benefit from government indemnity, and because most other nuclear activities, e.g., waste burial grounds, purchase a nuclear energy liability policy, GTE's CGL would be nullified for third party liability

resulting from the nuclear energy hazard in most cases. It is also important to note that for suppliers of services, materials, parts, or equipment to nuclear facilities in the United States, its territories, or Canada, Paragraph 3 of the BFNE removes liability coverage for injury to or destruction of property at the facility which results from the nuclear energy hazard. I have enclosed a copy of the Broad Form Nuclear Exclusion for ease of reference.

The question, then, is: Where does a supplier to the nuclear industry find protection? Because the BFNE can drastically alter the risk management program, a supplier to the nuclear industry must carefully determine what type of activities are supplied and for those activities, where protection can be found. Therefore, the answer is unfortunately not simple and depends on the type of nuclear facility that is supplied, its insurance/indemnity program, and its location.

For insurance purposes, nuclear facilities fall into two categories: indemnified and non-indemnified. Indemnified nuclear facilities are required by law to provide financial protection to cover their potential third party liabilities. They also benefit from the government indemnity program and provide liability protection in excess of the amounts afforded by the private insurance market. Currently, all nuclear reactors, all spent fuel reprocessors, and certain plutonium facilities are indemnified. Non-indemnified facilities have no legal requirements to provide financial protection, nor do they benefit from government indemnity. Facilities such as radioactive waste burial grounds, nuclear fuel fabrication plants, and commercial research facilities are examples of non-idemnified facilities. The distinction between indemnified and non-indemnified facilities has a critical impact on a supplier's potential nuclear liability, as the following examples illustrate:

Supplying to an Indemnified Facility

The Atomic Energy Act of 1954 (as amended) requires operators of indemnified facilities to provide financial protection to cover possible third party liabilities. Operators meet this requirement by purchasing a Nuclear Energy Liability (Facility Form) policy. This policy contains a "Definition of Insured" clause that reads:

> "The unqualified word 'Insured' includes (a) the named insured and (b) any other person or organization with respect to his legal responsibility for damage because of bodily injury or property damage caused by the nuclear energy hazard."

Suppliers, therefore, receive protection under this policy. In excess of the operator's Facility Form, Secondary Financial

Protection furnishes the second tier of financial protection in the event of a nuclear incident at a commercial nuclear reactor. SFP consists of a post loss assessment of each large nuclear reactor (one that is greater than 100MWe). The amount of the assessment that each licensee incurs is a pro-rata share of the public liability that exceeds $160 million, and is subject to the maximum assessment of $5 million for one incident and $10 million in one year. Currently, 80 reactors participate in this program to provide $400 million excess of the $160 million of private insurance for one incident. This total, $560 million, is the legal limit of liability available to the public for damages in the event of a nuclear incident at a commercial reactor. (For indemnified facilities other than utility reactors, the legal limit of liability is the amount of financial protection required by the Nuclear Regulatory Commission plus a $500 million government indemnity but not to exceed $560 million). Should the public liability exceed this amount, the law provides Congress would review the incident and take appropriate actions to ensure the protection of the public.

This indemnity program that provides funds to ensure public compensation in the event of a nuclear incident was established by the Price-Anderson Act in 1957 and was further amended in 1977. In the 1970's, the Price-Anderson Act was subjected to legal challenge. Duke Power Company v. Carolina Environmental Study Group, Inc., et al, reached the Supreme Court in June, 1978, and in a unanimous decision, the provisions of the Price-Anderson Act were upheld. The Price-Anderson Act is due for review by Congress in 1987.

Although suppliers to an indemnified facility are well protected from third party liability, there are exposures for which the supplier cannot purchase insurance. As noted earlier, these exposures include on-site property damage and loss of use of the nuclear utility. For these cases, the supplier must rely on exculpatory agreements with the facility. We are not attorneys, and therefore, we are unable to give specific contract recommendations. However, I have included for your information examples of contractual clauses that we have seen used by suppliers to the nuclear industry.

Supplying to a Non-Indemnified Facility

Operators of non-indemnified facilities are not required to maintain nuclear liability protection. Nevertheless, they often do so by purchasing a Facility Form policy. Because of the policy's "Definitiion of Insured" clause a supplier is also protected. However, the limit of liability carried under the Facility Form may be inadequate in the event of a loss. As stated earlier, there are no government indemnities for non-

indemnified facilities to respond in excess of the Facility Form and there is no maximum limit of liability for nuclear incidents at these facilities. Therefore, the supplier's exposure could be considerable.

Nuclear Exposure Outside the United States

Thus far, I have confined the discussion to the exposure within the United States. However, the nuclear industry is truly international in scope. Virtually every country with a nuclear facility have laws governing nuclear liability. Many countries are signatories to various international conventions on nuclear liability, and several countries that are not signatories nevertheless model their legislation on these treaty provisions. An exact description of a supplier's potential liability in every country in the world would be virtually impossible. However, some general comments can be made. Basically, foreign countries seek to make the facility operator solely liable for a nuclear incident. In spite of this intention, practically every law or treaty that we have examined in detail contain provisions that could lead to the supplier being held liable after a nuclear incident occurs. For example, the Paris Convention on Third Party Liability in the Field of Nuclear Energy (which generally holds the facility operator solely liable for the nuclear incident) states that the operator will not be liable for nuclear incidents arising from the "acts of God", such as earthquakes. The convention, however, does not say who would be liable in that circumstance, and thus it leaves open the possibility that suppliers could be liable - particularly if their supply contracts contain seismic warranty provisions that are breached when the earthquake occurs. Subject to all of its other terms and conditions, the foreign S&T policy would protect the supplier for those instances where "bodily injury and property damage caused by the nuclear injury hazard" fall outside the scope of indemnity protection.

Jim, this subject is quite complex, so if you should have any questions, please do not hesitate to contact us.

Sincerely,

Jim Fredrickson

Tim Fredrickson
Nuclear Advisory Group

df

cc: Dave Peck
John McNellis

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT
(BROAD FORM)

This endorsement, effective (12:01 A. M., standard time) forms a part of policy No.

issued to

by

It is agreed that the policy does not apply:

I. Under any Liability Coverage, to injury, sickness, disease, death or destruction

(a) with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

II. Under any Medical Payments Coverage, or under any Supplementary Payments provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if

(a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;

(b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or

(c) the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.

IV. As used in this endorsement:

"**hazardous properties**" include radioactive, toxic or explosive properties;

"**nuclear material**" means source material, special nuclear material or byproduct material;

"**source material**", "**special nuclear material**", and "**byproduct material**" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"**spent fuel**" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

"**waste**" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof;

"**nuclear facility**" means

(a) any nuclear reactor,

(b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,

(c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"**nuclear reactor**" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

With respect to injury to or destruction of property, the word "**injury**" or "**destruction**" includes all forms of radioactive contamination of property.

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Boston
Charlotte
Chicago
Cleveland
Dallas
Denver
Detroit
Hartford
Honolulu
Houston
Los Angeles
Miami
Minneapolis
New Orleans
New York
Philadelphia
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CABLE ADDRESS "KERODEN"
TELEX NO. 422098

95 WALL ST., NEW YORK, N.Y. 10005
TEL 701-7500 AREA CODE 212

March 16, 1983

Mr. James H. Doherty, Manager
Corporate Insurance
GTE Corporation
One Stamford Forum
Stamford, Connecticut 06904

Dear Jim:

Pursuant to your discussions with Dave Peck concerning nuclear liability, Dave asked us to provide you with a brief explanation of the nuclear exposure.

Under certain conditions, the Broad Form Nuclear Exclusion (BFNE) which attaches to all Comprehensive General Liability policies may remove liability coverage for a nuclear incident. There are three circumstances for which Paragraph 1 of the BFNE removes coverage. If GTE is an insured under a nuclear energy liability policy but for its termination upon the exhaustion of its liability limits (an explanation of how GTE would be an insured under this policy follows), then coverage for damages resulting from the nuclear energy hazard is removed. If the nuclear incident is one for which any person or organization is required by the Atomic Energy Act of 1954 (as amended) to maintain financial protection, coverage is likewise removed. Or, if GTE is entitled (or would have been entitled absent the CGL) to government indemnity, the BFNE would act to nullify liability coverage. Because all nuclear reactors must maintain financial protection and/or benefit from government indemnity, and because most other nuclear activities, e.g., waste burial grounds, purchase a nuclear energy liability policy, GTE's CGL would be nullified for third party liability

resulting from the nuclear energy hazard in most cases. It is also important to note that for suppliers of services, materials, parts, or equipment to nuclear facilities in the United States, its territories, or Canada, Paragraph 3 of the BFNE removes liability coverage for injury to or destruction of property at the facility which results from the nuclear energy hazard. I have enclosed a copy of the Broad Form Nuclear Exclusion for ease of reference.

The question, then, is: Where does a supplier to the nuclear industry find protection? Because the BFNE can drastically alter the risk management program, a supplier to the nuclear industry must carefully determine what type of activities are supplied and for those activities, where protection can be found. Therefore, the answer is unfortunately not simple and depends on the type of nuclear facility that is supplied, its insurance/indemnity program, and its location.

For insurance purposes, nuclear facilities fall into two categories: indemnified and non-indemnified. Indemnified nuclear facilities are required by law to provide financial protection to cover their potential third party liabilities. They also benefit from the government indemnity program and provide liability protection in excess of the amounts afforded by the private insurance market. Currently, all nuclear reactors, all spent fuel reprocessors, and certain plutonium facilities are indemnified. Non-indemnified facilities have no legal requirements to provide financial protection, nor do they benefit from government indemnity. Facilities such as radioactive waste burial grounds, nuclear fuel fabrication plants, and commercial research facilities are examples of non-idemnified facilities. The distinction between indemnified and non-indemnified facilities has a critical impact on a supplier's potential nuclear liability, as the following examples illustrate:

Supplying to an Indemnified Facility

The Atomic Energy Act of 1954 (as amended) requires operators of indemnified facilities to provide financial protection to cover possible third party liabilities. Operators meet this requirement by purchasing a Nuclear Energy Liability (Facility Form) policy. This policy contains a "Definition of Insured" clause that reads:

> "The unqualified word 'Insured' includes (a) the named insured and (b) any other person or organization with respect to his legal responsibility for damage because of bodily injury or property damage caused by the nuclear energy hazard."

Suppliers, therefore, receive protection under this policy. In excess of the operator's Facility Form, Secondary Financial

Protection furnishes the second tier of financial protection in the event of a nuclear incident at a commercial nuclear reactor. SFP consists of a post loss assessment of each large nuclear reactor (one that is greater than 100MWe). The amount of the assessment that each licensee incurs is a pro-rata share of the public liability that exceeds $160 million, and is subject to the maximum assessment of $5 million for one incident and $10 million in one year. Currently, 80 reactors participate in this program to provide $400 million excess of the $160 million of private insurance for one incident. This total, $560 million, is the legal limit of liability available to the public for damages in the event of a nuclear incident at a commercial reactor. (For indemnified facilities other than utility reactors, the legal limit of liability is the amount of financial protection required by the Nuclear Regulatory Commission plus a $500 million government indemnity but not to exceed $560 million). Should the public liability exceed this amount, the law provides Congress would review the incident and take appropriate actions to ensure the protection of the public.

This indemnity program that provides funds to ensure public compensation in the event of a nuclear incident was established by the Price-Anderson Act in 1957 and was further amended in 1977. In the 1970's, the Price-Anderson Act was subjected to legal challenge. Duke Power Company v. Carolina Environmental Study Group, Inc., et al, reached the Supreme Court in June, 1978, and in a unanimous decision, the provisions of the Price-Anderson Act were upheld. The Price-Anderson Act is due for review by Congress in 1987.

Although suppliers to an indemnified facility are well protected from third party liability, there are exposures for which the supplier cannot purchase insurance. As noted earlier, these exposures include on-site property damage and loss of use of the nuclear utility. For these cases, the supplier must rely on exculpatory agreements with the facility. We are not attorneys, and therefore, we are unable to give specific contract recommendations. However, I have included for your information examples of contractual clauses that we have seen used by suppliers to the nuclear industry.

Supplying to a Non-Indemnified Facility

Operators of non-indemnified facilities are not required to maintain nuclear liability protection. Nevertheless, they often do so by purchasing a Facility Form policy. Because of the policy's "Definitiion of Insured" clause a supplier is also protected. However, the limit of liability carried under the Facility Form may be inadequate in the event of a loss. As stated earlier, there are no government indemnities for non-

indemnified facilities to respond in excess of the Facility Form and there is no maximum limit of liability for nuclear incidents at these facilities. Therefore, the supplier's exposure could be considerable.

Nuclear Exposure Outside the United States

Thus far, I have confined the discussion to the exposure within the United States. However, the nuclear industry is truly international in scope. Virtually every country with a nuclear facility have laws governing nuclear liability. Many countries are signatories to various international conventions on nuclear liability, and several countries that are not signatories nevertheless model their legislation on these treaty provisions. An exact description of a supplier's potential liability in every country in the world would be virtually impossible. However, some general comments can be made. Basically, foreign countries seek to make the facility operator solely liable for a nuclear incident. In spite of this intention, practically every law or treaty that we have examined in detail contain provisions that could lead to the supplier being held liable after a nuclear incident occurs. For example, the Paris Convention on Third Party Liability in the Field of Nuclear Energy (which generally holds the facility operator solely liable for the nuclear incident) states that the operator will not be liable for nuclear incidents arising from the "acts of God", such as earthquakes. The convention, however, does not say who would be liable in that circumstance, and thus it leaves open the possibility that suppliers could be liable - particularly if their supply contracts contain seismic warranty provisions that are breached when the earthquake occurs. Subject to all of its other terms and conditions, the foreign S&T policy would protect the supplier for those instances where "bodily injury and property damage caused by the nuclear injury hazard" fall outside the scope of indemnity protection.

Jim, this subject is quite complex, so if you should have any questions, please do not hesitate to contact us.

Sincerely,

Tim Fredrickson

Tim Fredrickson
Nuclear Advisory Group

df

cc: Dave Peck
John McNellis

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT
(BROAD FORM)

This endorsement, effective (12:01 A. M., standard time) forms a part of policy No.

issued to

by

It is agreed that the policy does not apply:

I. Under any Liability Coverage, to injury, sickness, disease, death or destruction

(a) with respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

II. Under any Medical Payments Coverage, or under any Supplementary Payments provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if

(a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;

(b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or

(c) the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.

IV. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties;

"nuclear material" means source material, special nuclear material or byproduct material;

"source material", "special nuclear material", and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

"waste" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof;

"nuclear facility" means

(a) any nuclear reactor,

(b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,

(c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

With respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.

INDEMNIFIED FACILITIES

OPERATORS REQUIRED TO PROVIDE 3RD PARTY LIABILITY COVERAGE. SUPPLIERS INCLUDED AS "~~ADDED~~ INSUREDS"

- MAIN EXPOSURE
  DAMAGE TO & LOSS OF USE OF FACILITY

- NO INSURANCE AVAILABLE - MUST PROTECT OURSELVES THROUGH CONTRACT HOLD HARMLESSES
  MUST REVIEW ALL POLICIES
- ATTACHED IS INFO FROM I&H TO BE USE AS GUIDELINE. REVIEW CONTRACTS WITH LEGAL STAFF.

DISTRIBUTION LIST
NUCLEAR LIABILITY

W. E. JOHNS	~~SYLVANIA~~ ELECTRICAL EQUIP. - CLEVELAND
W. S. SMITH	GTE WESCO
R. J. DOLEZAL	GTE BCS - JEANNETTE
D. W. FRY	GTE PRECISION MATERIALS - WILLIAMSPORT, PA.
R. M. HENDERSON	ELECTRICAL EQUIPMENT - LOS ANGELES.
J. G. BEICEK	GTE AUTOMATIC ELECTRIC
C. VAN LULING	GTE TELENET COMMUNICATIONS
E. CADY	GTE UNISTRUT
E. POIRIER	GTE LIGHTING - DANVERS
H. RIDGEWAY	GTE LENKURT - SAN CARLOS.
C. LONG	GTE MICROCIRCUITS.
J. WALSH	ELECTRICAL EQUIP - LANCASTER

NUCLEAR POLICIES

MSF - 2A

SUPPLIER'S & TRANSPORTER'S FORM - FOREIGN
LIMIT - $10,000,000 OCCURRENCE
MUTUAL ATOMIC ENERGY LIABILITY UNDERWRITERS

- PD/BOD INJ. THIRD PARTY - NUCLEAR ENERGY HAZARD.
- EXCLUDES DAMAGE TO NUCLEAR FACILITY

MS-3

SUPPLIER'S & TRANSPORTER'S FORM -
MUTUAL ATOMIC ENERGY LIABILITY UNDERWRITERS
LIMIT - $10,000,000 OCCURRENCE
- EXCLUDES DAMAGE TO NUCLEAR FACILITY

NUCLEAR 10-3-83

ALLOCATION OF COST UNDER CASUALTY PROGRAM

1.) ALL NUCLEAR POLICIES MOST RUN JAN 1 TO JAN 1

2.) HOW TO CREDIT ANNUAL DIVIDEND CHECKS

NUCLEAR LIABILITY
MEMO TO DAN

- INDEMNIFIED VS NON-INDEMNIFIED FACILITIES

- INDEMNIFIED EXPOSURE
  PD/BI DAMAGE TO FACILITY
  REC → REVIEW CONTRACTS.
- RI NON-INDEMNIFIED EXPOSURE
  * PD/BI DAMAGE TO FACILITY
    REC → REVIEW CONTRACTS.
  * THIRD PARTY EXPOSURE
    LOW OPERATOR LIMITS
    DISPOSAL.
    REC - INCREASE POLICY TO $50 MILL
    & BILL UNDER CASUALTY ALLOCATION.

NUCLEAR LIABILITY 9-16-83

TIM FREDRICKSON -
JOHN RUDDER -

1) DEDUCTIBLE AMOUNT.
2) IF CLAIM NOT FILED CLAIM IN EXCESS OF PROPERTY PROGRAM.
3)

INDEMNIFIED FACILITIES

- MAIN EXPOSURE - DAMAGE TO & ~~BE~~ LOSS OF USE OF FACILITY.

* OPERATORS REQUIRED TO CARRY PROPERTY INSURANCE -

POLICY CONTAINS AUTOMATIC WAIVER OF SUBROGATION

$500 MILLION - PRIMARY (POOLS)
EXCESS LAYER
68 MILLION
- 415 MILLION
} MUST OBTAIN ONE OR THE OTHER.

* REVIEW CONTRACTS FOR HOLD HARMLESS - IF WE CAN NOT PROTECT OURSELVES CONTRACTUALLY, "INSURANCE" IS NOT AVAILABLE.

NON-INDEMIFIED FACILITIES

- MAY OR MAY NOT ~~PROT~~ PURCHASE INSURANCE.
- IF THEY DO, WE WOULD BE PROTECTED UNDER THEIR POLICY AS "NAMED INSURED". - FOR 3RD PARTY LIABILITY

PROBLEMS:

- LOW LIMITS
- LIABILITY NOT LIMITED BY GOVT

* CHECK NUCLEAR EXCLUSION

- CANCELLATION OF POLICY

EXPOSURES

* "LIMITED" 3RD PARTY COVERAGE -
* DAMAGE TO FACILITY - & LOSS OF USE -
→ CAN ONLY AIM TO PROTECT OURSELVES THROUGH OUR CONTRACTS.

OUR NUCLEAR POLICY COVERS:

- INCIDENTS AWAY FROM COVER FACILITY/ NOT COMING UNDER THE ~~OPERAT~~ FACILITY POLICY
- "EXCESS" COVERAGE OF NON-INDEMNIFIED FACILITY PROGRAM - 3RD PARTY LIABILITY
- PRIMARY COVERAGE IF NO PROGRAM EXISTS.
- DISPOSAL CONTAMINATION -

AREAS OF CONCERN -

- DO NOT CONTROL INSURANCE AT NON-IND. FACILITY
- DISPOSAL EXPOSURE
-

POLICY PROVIDES DEFENSE COST - PART OF LIMIT -

1.) LOCATIONS KNOWINGLY DEALING WITH NUCLEAR ⇒ REVIEW CONTRACTS ON LIABILITY FOR DAMAGE

2.) NUCLEAR POLICY LIMITS -
- TIM ⇒ INDUSTRY AVERAGE ON LIMITS -

NUCLEAR LIABILITY

TYPES OF FACILITIES

① INDEMNIFIED

- REQUIRED TO PROVIDE FINANCIAL PROTECTION

PROTECTION - 3RD PARTY
1ST LAYER - $160 MILLION → PURCHASED BY OWNER
2ND LAYER - $110 MILL - UTILITIES
3RD LAYER - U.S. GOVT

↓

[PRICE-ANDERSON ACT]

GOVERNMENT INDEMNITY PROGRAM
LIMITED LIABILITY
OPERATIONS
NUCLEAR REACTORS
SPENT FUEL REPROCESSORS
PLUTONIUM FACILITIES.

*EXPOSURE → DAMAGE & LOSS TO FACILITY

② NON-INDEMNIFIED

- NO GOVERNMENT INDEMNITY
- NO LIMIT ON LIABILITY
- OPERATIONS
  - RADIOACTIVE WASTE DISPOSAL
  - NUCLEAR FUEL FABRICATION
  - COMMERCIAL RESEARCH

* SUPPLIERS ARE "NAMED" INSUREDS UNDER AN INDEMNIFIED FACILITY'S INSURANCE PROGRAM* FOR THIRD PARTY LIABILITY ONLY.

[EXPOSURE → DAMAGE & LOSS OF USE LIABILITY TO OWNER OF FACILITY.]

- INSURANCE NOT AVAILABLE → ONLY PROTECTION IS THROUGH EXCULPATORY CLAUSES

* SUPPLIERS ALSO "NAMED" INSURED UNDER NON-INDEMNIFIED FACILITY'S PROGRAM.

EXPOSURES:

- NO LIMIT TO LIABILITY
- NO GOVT INDEMNIFICATION PROGRAM.
- DAMAGE & LOSS OF USE OF OWNERS' FACILITY.

NUCLEAR LIABILITY

① LIABILITY FOR DAMAGE TO & LOSS OF USE OF NUCLEAR FACILITIES
- LETTER TO COMPANIES STRESSING NEED TO REVIEW CONTRACTS & OBTAIN WAIVERS OR HOLD HARMLESSES.

* NEED NAME OF THOSE COMPLETING SURVEY WHO IDENTIFIED NUCLEAR PLANTS

② LIABILITY COVERAGE (THIRD PARTY) FOR NON-INDEMNIFIED FACILITIES
- REVIEW LIMIT
- MEMO TO DAN
  - OUTLINING EXPOSURE
  - RECOMMENDING INCREASED LIMITS
  - INCLUDING COST UNDER CASUALTY ALLOCATION.

8

Report.

DATE: March 23, 1984

TO: Distribution List

FROM: James H. Doherty

GTE Service Corporation
One Stamford Forum
Stamford, CT 06904
203 965-2000

The Atomic Energy Act of 1954 (as amended) requires operators of certain nuclear facilities (referred to as indemnified facilities) to provide financial protection to cover potential third party liability arising from the operation of their facility. Currently, all nuclear reactors, all spent fuel reprocessors, and certain plutonium facilities are classified as indemnified facilities.

Operators of indemnified facilities meet this financial requirement through the obtainment of a nuclear energy liability (Facility Form) policy. For nuclear incidents occurring at a commercial reactor and in excess of the Facility Form (or $160 million), Secondary Financial Protection furnishes a second tier of funds for third party liabilities. Currently, $410 million is available through this pooling arrangement of all commercial reactors. This total, $570 million, is the legal limit of liability available to the public for damages in the event of a nuclear incident at at commercial reactor.

An operator's nuclear energy liability policy contains a "Definition of Insured" clause that reads: "The unqualified word 'insured' includes (a) the named insured and (b) any other person or organization with respect to his legal responsibility for damage because of bodily injury or property damage caused by the nuclear energy hazard."

Although suppliers to an indemnified facility are well protected against third party liability through the "Definition of Insured" clause of the operator's policy, Secondary Financial Protection, and the statutory limits on potential liability, there are exposures for which the supplier can not purchase insurance. These exposures include on-site property damage to and loss of use of the supplied nuclear facility. For these cases, the supplier must rely on the exculpatory clauses contained in the supply contract with the facility to eliminate or mitigate these exposures.

The enclosed material from our insurance broker, Johnson & Higgins, discusses some typical contractual clauses concerning nuclear property insurance, nuclear liability insurance, waivers, and hold harmless agreements. This material serves only as a guide for use when reviewing facility supply contracts with your company counsel.

This uninsured exposure will also exist with non-indemnified facilities such as radioactive waste burial grounds, nuclear fuel fabrication plants and commercial research facilities. Supply contracts with this type of

facility should also be reviewed with regard to eliminating or mitigating potential liability for on-site property damage to and loss of use of the facility.

A non-indemnified nuclear facility is not required to maintain nuclear liability protection. Although most facilities do provide some level of liability protection through the use of an operators nuclear energy (Facility Form) liability policy, under which GTE would be protected by the "Definition of Insured" clause in the policy, the policy limits may prove inadequate in the event of a loss.

Also, there are no Secondary Financial Protection funds which would be available nor are there any statutory limitations placed on liability to the public for damages caused by a non-indemnified facility.

Because of this potential third party liability exposure from a non-indemnified facility, GTE has maintained a nuclear energy liability policy for many years. This policy is now under review; in particular the limits of liability, to make certain that GTE's potential third party liability is properly protected. You will be advised of any changes.

As this is a rather complex subject, please contact me should you have any questions.

James H. Doherty
Manager - Corporate Insurance
Insurance and Pensions Department

:kmp/bdt

125 Broad Street
New York, N.Y. 10004-2424
212 574 7000

Cable Address "KERODEN"
Telex No. 6720134 JANHNY UW

JOHNSON & HIGGINS Established 1845

April 5, 1991

Mr. Wayne Harrison
Senior Administrator
Casualty & International Insurance
GTE Corporation
One Stamford Forum
Stamford, Connecticut 06904

Re: Nuclear Liability Insurance
Supplier's and Transporter's Policies, NS-463 and MSF-2A

Dear Wayne:

I would like to take a moment to summarize our phone conversations of the last few days. As we have discussed, the need for nuclear liability insurance, both domestic and foreign, can be difficult to quantify.

Domestic Nuclear Exposure

In attempting to clarify the exposure, we need to briefly examine the meaning of "Nuclear Facility" as it pertains to the Price-Anderson Amendment to the Atomic Energy Act of 1954. For insurance purposes, nuclear facilities fall into two categories, i.e., indemnified and non-indemnified. Indemnified facilities enjoy the benefit of government indemnity programs that provide liability protection excess of mandated private insurance. Commercial nuclear reactors, spent fuel reprocessors and certain plutonium facilities are considered indemnified. Non-indemnified facilities do not benefit from such government indemnity nor are they required to purchase nuclear liability insurance. Having defined the types of nuclear facilities, we now examine the exposure faced by a supplier.

A. Supplying to an Indemnified Facility

Consider the case where a product is supplied to a large commercial nuclear reactor. The operator, as already mentioned, is required by law

to purchase all commercially available nuclear liability insurance. To meet this requirement the operator purchases a Facility Form nuclear energy liability policy. This policy contains a very broad definition of insured. Specifically, the unqualified word "insured" includes (a) the named insured and (b) any other person or organization with respect to his legal responsibility for damages because of bodily injury or property damage caused by the nuclear energy hazard.

Suppliers, therefore, receive protection under this policy. Additionally, protection for suppliers is also found under the Secondary Financial Protection (SFP) government indemnity program. The current limit of liability under this program is $7.607 billion per incident.

Why then would a supplier to a commercial reactor (an indemnified nuclear facility) need to purchase an S&T policy? The answer lies in the fact that both the Facility Form and SFP only apply to incidents arising at the nuclear site or in insured shipments. Incidents involving a supplier's products may not be covered while away from the site. For example, consider the case of a radioactively contaminated component that needs to be taken off-site for repair. Once the component arrives at the repair facility, coverage under the operator's Facility Form is no longer available. If the repair facility fails to maintain nuclear insurance protection, or maintains such coverage in inadequate amounts, the S&T would provide the supplier protection. A second example of the need for an S&T arises out of the disposal of a contaminated product, potentially forty or more years following initial reactor operation. Due to the hazards of radioactive contamination, these components must be disposed of in approved waste burial grounds. Once the material arrives at the waste site coverage is no longer available under the reactor operator's Facility Form. Here again, the S&T may provide protection for the supplier.

B. Supplying to Non-Indemnified Facility

Operators of non-indemnified facilities are not required to maintain nuclear liability protection, nor do they benefit from any government indemnity programs. Should the operator of such a facility purchase a Facility Form nuclear liability policy, its "Definition of Insured" clause would also protect suppliers. However, the limit of liability carried under

the Facility Form may be very small and, in the event of a loss, may prove inadequate. In fact, the nuclear pools will not provide more than $25 million in coverage to the nuclear waste facilities alluded to earlier. Without Price-Anderson indemnity to respond excess of the operator's Facility Form, the supplier's exposure could be considerable. Subject to all of its terms and conditions, the supplier's S&T policy should respond in excess of the operator's Facility Form if that policy's limit proves inadequate. Additionally, if a non-indemnified facility operator did not purchase nuclear liability protection, then a supplier might need to rely on his S&T for primary coverage.

Foreign Nuclear Exposure

Assessing the magnitude of a supplier's foreign nuclear exposure is an even more complex task. Most countries outside the United States that engage in nuclear operations subscribe to one of two conventions, the Paris Convention on Third-Party Liability (1960) or the Vienna Convention on Civil Liability (1963). These treaties are similar in scope and generally channel strict liability back to the operator of a nuclear facility. National legislation, working in concert with the treaties, usually caps the amount of liability for a nuclear accident, much the same as the Price-Anderson Act does in the United States. The difficulty in assessing one's exposure results from the fact that each country has its own legislation and insurance regulations. Additionally, the judicial systems in these countries can be volatile and unpredictable.

To protect against the possibility, however remote, that a supplier may be held liable for a nuclear accident in a country to which it has supplied parts or services, a supplier may purchase a Foreign Supplier's and Transporter's nuclear liability policy. In addition to providing protection for any gaps in a facility operator's strict nuclear liability, the foreign S&T also provides defense costs should suits be brought with regard to the nuclear energy hazard. It is important to note that there have been no claims paid to date under a foreign S&T policy. This does not mean the policy is not valuable, however, it only implies that the risk may be small.

Summary

Wayne, I hope the above discussion clarifies why GTE has maintained both domestic and foreign S&T policies since 1958 and 1979 respectively. In light of the recent Rating Information Forms and Foreign Rating Information Forms you have submitted to ANI and MAELU, it appears the exposure from GTE's recent operations is small. There is, however, one additional factor to consider before you cancel these policies.

Both the foreign and domestic Supplier's and Transporter's forms are continuous until cancelled. This means that there is no limit as to when a claim can be filed as long as the alleged bodily injury or property damage resulted from an occurrence during the policy period. For example, an insured claim resulting from a latent injury caused by GTE's operations in 1960 would still be covered under your S&T today. This changes, however, after the policy has been cancelled. Following cancellation, a claimant has ten years to file a claim against the policy. This of course does not limit GTE's liability in the event of a valid claim, it only limits possible insurance recovery.

To prevent the start of this ten-year discovery period, you might consider reducing limits to $1 million and maintaining the policies in force. If you were to do this, the 1991 premium for policy NS-463 would be $3,194.80 and the 1991 premium for policy MSF-2A would be $3,638.00.

We recognize that this coverage can be somewhat confusing, so we wanted to ensure that you fully understand the consequences of cancelling these policies. Please call me at (212) 574-7923 if you would like to discuss this further.

Sincerely,

Mark Charette
Nuclear Advisory Group

MC/vvc

cc: Dave Peck, J&H Stamford

cc: W. Hollaway

Time In

JAN 15 4 02 PM

Time Delivered

FAX TRANSMISSION

DAY, BERRY & HOWARD

One Canterbury Green
Stamford, Connecticut 06901-2047
(203) 977-7300
Fax: (203) 977-7301

From: Jerome Berkman, Esq. **Phone #:** 203 977-7369

Date: January 15, 1998 **Pages:** 37, including this coversheet.

Subject: GTE to Prudential

NAME	COMPANY	FAX NO.	PHONE NO.
Judith Harris, Esq	GTE Service Corporation	965-3709; 965-3209	965-3074
Kathleen Wallace, Esq.	GTE Service Corporation	965-3209	965-3586
Barry Ross, Esq.	Robinson Silverman Pearce Aronsohn & Berman	212 541-4630; 541-1455	212 541-2255
Beth Hinsdale, Esq.	Prudential Life Insurance Company of America	973 802-8357	973 367-2495
Ed Rytter	Prudential Life Insurance Company of America	973 367-7301	973 367-1178
Steven Rothman	Prudential Life Insurance Company of America	973 367-7255; 367- 7301	973 367-2592

MEMO:

If there is any problem during transmission please call (203) 977-7366.

__Transmission verification attached. Automatic confirmation.
__Voice confirmation by _____

Originals will follow?
via

Rev. 3/1/96

Timekeeping No. 300 Client/Matter No. 33026-00450

Fax Dept: Domestic (15) # pgs. ___; Inter. (16)___; Service (18)___; **Return To: mcp**

DAY, BERRY & HOWARD

Counsellors at Law
Stamford, Hartford and Boston

One Canterbury Green
Stamford
Connecticut 06901-2047
Telephone (203) 977-7300
Facsimile (203) 977-7301
Internet berkmaj@dbh.com

Jerome Berkman
(203) 977-7369
Via Facsimile

January 15, 1998

Barry Ross, Esq.
Robinson Silverman Pearce Aronsohn & Berman
1290 Sixth Avenue
New York, NY 10104

Re: *GTE Management Development Center, Norwalk, CT*

Dear Barry:

Per your request I enclose a clean copy of the final Contract of Sale, excluding Exhibits. I have deleted Section 5.2 per your request and the last sentence of 11.4(d) per Beth Hinsdale's request. There are no other changes since those faxed to you this morning.

I haven't yet received final approval of the Employee Transfer Agreement from Kathy and Beth, and so I'll fax that out separately.

I'll send to you by overnight courier a complete copy of the Contract with all Exhibits. The signing is scheduled for 12:30 pm tomorrow in Stamford.

Sincerely,

Jerome Berkman

jb/mcp
Enclosure

cc: (w/encl., via fax)
E. Rytter
J. Harris, Esq.
K. Wallace, Esq.
B. Hinsdale, Esq.
S. Rothman

B. Ross, Esq. (w/encl., via UPS Courier)

70088310-9
33026-00450

CONTRACT OF SALE

Between

GTE REALTY CORPORATION,

Seller

and

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA,

Buyer

Premises:

GTE MANAGEMENT DEVELOPMENT CENTER
Norwalk, CT

Dated:
January 16, 1998

CONTENTS

EXHIBITS

AGREEMENT dated January 16, 1998, between **GTE REALTY CORPORATION** ("**Seller**"), a Connecticut corporation having an office at One Stamford Forum, Stamford, CT 06904; and **THE PRUDENTIAL INSURANCE COMPANY OF AMERICA** ("**Buyer**"), a New Jersey corporation having an office at Two Gateway Center, Newark, NJ 07102-5096.

Seller and Buyer, in consideration of the mutual covenants herein contained, hereby covenant and agree as follows:

Article 1. Description of Property.

1.1 Premises.

Seller shall sell to Buyer, and Buyer shall purchase from Seller, at the price and upon the terms and conditions set forth in this Agreement, the Premises (as hereinafter defined), consisting of:

(a) the parcel of land more particularly described on Exhibit A attached hereto (the "**Land**") in the City of Norwalk, Connecticut (the "**City**");

(b) all buildings and improvements situated on the Land (collectively, the "**Building**");

(c) all right, title and interest of Seller, if any, in and to the land lying in the bed of any street or highway in front of or adjoining the Land and all other appurtenances to the Land and Building;

(d) Easements, rights of way, privileges, appurtenances, and rights to the same belonging to and inuring, to the benefit of the Premises;

(e) Any strips and gores adjacent to the Premises and any land lying in the beds of any street, road or avenue, open or proposed, in front of or adjoining the Premises to the center line thereof; and

(f) All fixtures located on the Premises, including, without limitation, all fittings, heating, air cooling, air conditioning, freezing, lighting, laundry, incinerating, and power equipment and apparatus; all engines, pipes, pumps, tanks, motors, conduits, switch boards, plumbing, lifting, cleaning, fire prevention, fire extinguishing and refrigerating, equipment and apparatus; all furnaces, oil burners or units thereof; all appliances, vacuum cleaning, systems, awnings, screens, storm doors and windows, cabinets, partitions, ducts and compressors, furniture and furnishings, hot water heaters, garbage receptacles and containers above and below ground, janitorial supplies, landscaping, materials, lawn mowers, tools, vehicles and articles of a nature similar to the foregoing; and all future additions to or substitutions for the foregoing, or any part thereof, between the date hereof and the date of closing hereunder; and all the warranties and guarantees to and rights of action of Seller, if any, relating to the Premises.

The Land, the Building and the other property and property interests specified above are herein collectively referred to as the "**Premises**".

1.2 Personalty.

Except as herein specified, this sale includes all of the furniture and equipment (collectively the "**Personalty**") now existing in and on the Premises, which is owned or leased by GTE Service Corporation ("**Service**"). Attached hereto as Exhibit B-1 is a list of the Personalty owned by Service. Attached hereto as Exhibit B-2 is a list of the equipment leased by Service from third parties and the leases and rental agreements (collectively, the "**Equipment Leases**") covering same. Service has prepared such Exhibits in good faith and represents that there are no material omissions therefrom and that the Personalty on Exhibit B-1 hereto is owned by Service free and clear of all encumbrances. Excluded from such Exhibits and from this sale are personalty imprinted with the GTE name or logo, training materials and related software and those items described on Exhibit B-3 hereto. Miscellaneous service agreements (collectively, the "**Service Agreements**") with respect to the Premises are specified on Exhibit B-4 hereto. Buyer has had the opportunity to review and investigate the terms of the Equipment Leases and Service Agreements, and Service makes no representations with respect to same, except as hereinafter specified.

This sale also includes all supplies at the Premises on the Closing Date, but neither Service nor Seller makes any representation with respect to the quality or quantity of same.

1.3 Intent. It is the intent of the parties that Seller and Service shall transfer at the Closing all of their interest in the Premises and all real and personal property used in connection with the operation of the Premises as a conference center, except for those items specifically excluded by the terms of this Agreement.

Article 2. Purchase Price, Acceptable Funds and Escrow of Deposit.

2.1 Purchase Price. The purchase price (the "**Purchase Price**") to be paid by Buyer is Twenty-Four Million Five Hundred Thousand Dollars ($24,500,000), allocable $21,188,000 to the Premises and $3,312,000 to the Personalty. The Purchase Price is payable in accordance with the provisions of Section 2.3 as follows:

(a) $245,000 heretofore paid to Seller (the "**Good Faith Deposit**"), which is nonrefundable under all circumstances;

(b) $2,450,000 by wire transfer to Day, Berry & Howard (the "**Escrow Agent**"), to be held by the Escrow Agent pursuant to the provisions of Section 2.4 herein, to be delivered on or before 5:00 p.m. on the second (2nd) business day after the execution of this Agreement by all parties;

(c) $18,493,000 delivered to Seller at the Closing (as hereinafter defined); and

(d) $3,312,000 delivered to Service at the Closing.

2.2 Adjustment of Cash.

The cash payment required at the Closing will be increased or decreased, as the case may be, to account for all items to be apportioned.

2.3 Acceptable Funds.

All monies payable under this Agreement, unless otherwise specified herein, shall be paid by immediately available funds, wired to accounts of Seller and Service, as applicable, designated by notice to Buyer not less than three (3) business days prior to the Closing.

2.4 Escrow of Deposit.

(a) The sum paid under subsection 2.1(b) herein (the "**Deposit**") shall be delivered to the Escrow Agent. The Escrow Agent shall hold same in escrow in an interest-bearing bank account (or as otherwise agreed in writing by Seller, Buyer and the Escrow Agent) until the Closing or earlier termination of this Agreement and shall pay over or apply the Deposit in accordance with the terms of this Agreement. At the Closing, the Escrow Agent shall pay the Deposit and any interest thereon ("**Accrued Interest**") to Seller; provided however that 50% of the Accrued Interest shall be credited against the Purchase Price.

(b) If for any reason the Closing does not occur and either party makes a written demand upon the Escrow Agent for payment of such amounts, the Escrow Agent shall give written notice to the other party of such demand. If the Escrow Agent does not receive a written objection from the other party to the proposed payment within ten (10) business days after the giving of such notice, the Escrow Agent is hereby authorized to make such payment. If the Escrow Agent does receive such written objection within such ten (10) business day period or if, for any other reason, the Escrow Agent in good faith shall elect not to make such payment, the Escrow Agent shall continue to hold the Deposit and the Accrued Interest until otherwise directed by written instructions from Seller and Buyer or a final, unappealable and unappealed judgment of a court. However, the Escrow Agent shall have the right at any time to deposit the

Deposit and Accrued Interest with the Clerk of the Superior Court for Fairfield County, giving written notice of such deposit to Seller and Buyer. Upon such deposit, the Escrow Agent shall be relieved and discharged of all further obligations and responsibilities hereunder.

(c) The parties acknowledge that the Escrow Agent is acting solely as a stakeholder at their request and for their convenience, and that the Escrow Agent shall not be liable to either of the parties for any act or omission on its part unless taken or suffered in bad faith, in willful disregard of this Agreement or involving gross negligence. Seller and Buyer shall jointly and severally indemnify, defend and hold the Escrow Agent harmless from and against all costs, claims and expenses, including reasonable counsel fees, incurred in connection with performance of the Escrow Agent's duties hereunder, except with respect to actions or omissions taken or suffered by the Escrow Agent in bad faith, in willful disregard of this Agreement or involving gross negligence on its part.

(d) Buyer acknowledges that the Escrow Agent has acted as counsel for Seller and Service in this transaction and that, in the event of a dispute between Seller (and/or Service) and Buyer, the Escrow Agent shall not be prevented from representing Seller (and/or Service) in such dispute by reason of having acted as the agent, provided that the Escrow Agent shall at such time deposit the funds with said Superior Court or as otherwise directed by the parties.

(e) The Escrow Agent has acknowledged acceptance of these provisions by signing in the place indicated on the signature page of this Agreement.

2.5 Interest on the Deposit.

Except as otherwise provided in subsection 2.4(a) herein, the Accrued Interest shall be paid at such time that the Deposit is paid pursuant to this Agreement, to the party receiving the Deposit.

Article 3. The Closing.

3.1 Date, Place and Time of Closing.

(a) The transfer of title to the Premises and the Personalty pursuant to this Agreement (the "**Closing**") shall occur on January 28, 1998, or on such earlier date as the parties may determine (the "**Closing Date**"), with a preclosing on the preceding business day if required. Either party, acting through its counsel and upon notice to the other party on or prior to the scheduled Closing Date, may adjourn the Closing for up to five (5) business days, and Seller has limited rights to adjourn the Closing pursuant to other terms of this Agreement. TIME SHALL BE OF THE ESSENCE, however, with respect to the obligation to close the

transactions contemplated herein on the last day to which either party has validly adjourned the Closing pursuant to this Agreement.

(b) The Closing shall be held at the offices of Day, Berry & Howard, One Canterbury Green, Stamford, Connecticut 06901, commencing at 10:00 A.M. on the Closing Date. Counsels for Seller and Buyer are hereby respectively authorized to execute an agreement or agreements on behalf of the parties confirming the Closing Date.

Article 4. Acceptable Title and Clearing Title.

4.1 Acceptable Title.

Seller shall convey and Buyer shall accept insurable title to the Premises in accordance with the terms of this Agreement, subject only to the exceptions specified in Exhibit A and to the following:

(a) any restriction or limitations imposed by governmental authority as of the date hereof, including the zoning and planning rules and regulations of the City and the zoning permits and certificates referred to in Exhibit A hereto, provided that such zoning and planning rules, regulations, permits and certificates are not in material violation as of the date of the Closing, unless any violation of same is legally non-conforming as of the date of the Closing;

(b) real estate taxes of the City which become due and payable after the date of the Closing, which taxes Buyer will assume and agree to pay as part of the consideration for the deed, provided that nothing herein will obviate the requirement of adjusting real estate taxes pursuant to Article 9 herein;

(c) encroachments of ledges, fences, hedges, stone walls and retaining walls projecting from the Premises over any street or highway or over any adjoining property and encroachments of similar elements projecting from adjoining property over the Premises, provided same do not interfere with the current use and enjoyment of the Building;

(d) public improvement assessments and sewer connection charges, or other assessments and/or any unpaid installments thereof, which assessments and/or installments become due and payable after the date of the Closing, which assessments and/or installments Buyer will assume and agree to pay as part of the consideration for the deed;

(e) state of facts shown by accurate survey of the Premises, provided same does not show a material adverse change from the state of facts shown on a survey entitled "As-Built Map of Property Prepared for G.T.E. Advanced Management Education Center, Norwalk, Conn.", made by Leo Leonard, dated March 1, 1982 and revised February 15, 1983 (the "1983 Survey"); and

(f) all rights of utility companies under applicable law for the erection and/or maintenance of water, gas, electric, telephone, sewer or other utility pipes, line, poles, wires, conduits or other like facilities, and appurtenances thereto, over, across and under the Premises.

4.2 Clearing Title.

(a) Seller shall convey and Buyer shall accept fee simple, insurable title to the Premises in accordance with the terms of this Agreement, subject only to (i) the exceptions referred to in Section 4.1 herein; and (ii) such other matters as any reputable title insurance company qualified to do business in the State of Connecticut shall be willing to omit as exceptions to coverage. Nothing shall constitute an encumbrance, lien or exception to title for the purposes of this Agreement if the Standards of Title of the Connecticut Bar Association recommend that no corrective or curative action is necessary in circumstances substantially similar to those presented in the title to the Premises.

(b) Buyer has accepted the state of facts shown on the 1983 Survey, including without limitation the two (2) cemeteries located on the Land.

(c) Buyer has completed its title search, has delivered to Seller a copy of its title insurance commitment No. 974202651 NBU No. 973151 from Chicago Title Insurance Company, dated December 5, 1997. If an updating of the title to the Premises (including the obtaining of a new survey) prior to Closing shall reveal one or more encumbrances or exceptions to title which Buyer believes may prevent Seller from conveying title in accordance with the terms of this Agreement, Buyer shall, on or prior to the Closing, give Seller notice of same. Seller shall not be required to bring any action or otherwise incur any expense in order to cure a title defect not permitted under subsections (a) or (b) above; provided however that Seller shall be required to have released or removed of record (by payment, bonding or otherwise) (i) any mortgage or monetary lien which can be cured by the payment of a liquidated sum of money, but in no event shall Seller be required to release or remove of record a judgment lien in the amount of $5,000,000 or more if same cannot reasonably be bonded; and (ii) any other title encumbrance or exception voluntarily granted or created by Seller (x) subsequent to December 5, 1997, or (y) prior to December 5, 1997, but which is recorded subsequent to said date.

(d) If Buyer does so notify Seller of such defects, Seller shall have until 60 days subsequent to the scheduled Closing Date to cure such defects. If Seller shall accomplish same within such period and shall be able to convey title in accordance with the terms of this Agreement, the Closing shall then occur. If Seller shall not accomplish same within such period, Buyer, within five (5) business days after the expiration of such period, shall elect (i) to accept a deed to the Premises conveying such title as Seller can give in accordance with all of the other provisions of this Agreement upon payment of the Purchase Price; (ii) to cancel and terminate this Agreement, in which event the Escrow Agent shall promptly pay to Buyer the Deposit and

Seller shall reimburse Buyer for any expenses incurred by Buyer for examination of title to the Premises, not to exceed $1,500; or (iii) if Seller shall have breached its obligations under subsection (c) above, Buyer may enforce its remedies at law or in equity. If Buyer shall not make an election within said period, then Buyer shall be deemed to have elected alternative (ii) above. Upon such payments being made under alternative (ii), this Agreement shall be terminated, and neither party shall have any further liability to the other hereunder.

Article 5. Representations; Condition and Operation of Premises.

5.1 Power, Authority, Execution and Delivery.

(a) Buyer and Seller each represents and warrants to the other the following:

(i) each party has power and authority, respectively, to acquire and own or convey, as the case may be, the Premises;

(ii) the execution and delivery of this Agreement by the persons so acting on Buyer's or Seller's behalf, respectively, have been authorized by all necessary formal action of each party, and this Agreement is the legal, valid and binding obligation of each party respectively, enforceable in accordance with its terms;

(b) In order to induce Seller to enter into this Agreement, Buyer represents that it possesses the financial resources to perform all of its covenants and obligations contained in this Agreement, and the performance of such covenants and obligations will not render Buyer insolvent.

5.2 Inspection.

Buyer acknowledges and agrees that, except as specified in this Agreement, neither Seller or Service, nor any agent, employee, attorney or representative of Seller or Service has made any statements, agreements, promises, assurances, representations or warranties, whether expressed, implied, or otherwise regarding the condition of the Premises or the Personalty, the suitability of the Premises for any uses or purposes contemplated by Buyer, the zoning of the Premises, the environmental condition of the Premises and/or any other aspect of or matter pertaining to the Premises or the Personalty. Buyer acknowledges that (a) it is acquiring the Premises and the Personalty in an "as is, where is" condition as of the date hereof, subject to ordinary wear and tear until the Closing; (b) except as specified in this Agreement, Seller shall not be responsible for making (or contributing in any way to the cost of making) changes or improvements to the Premises; (c) Seller has afforded Buyer sufficient access to the Premises and the Personalty and sufficient opportunity to review the operation of the Premises, inspect the Personalty and review records, documents and reports concerning such operation and

the leasing of certain of the Personalty; and (d) in executing, delivering and performing its obligations under this Agreement, Buyer has not relied upon any statement, promise, representation or warranty to whomsoever made or given, directly or indirectly, orally or in writing, by any person or entity, except as specified in this Agreement. Buyer expressly waives any right of rescission and all claims for damages by reason of any statement, representation, warranty, assurance, promise, or agreement, if any, unless expressly contained in this Agreement.

5.3 Seller's Representations. Seller hereby represents to Buyer as of the date hereof as follows, with respect to the Premises:

(a) Seller's net worth, as of November 30, 1997, exceeded $32,000,000, in accordance with generally accepted accounting principles consistently applied.

(b) Seller represents that the Premises do not constitute an "establishment" under Section 22a-134 of the Connecticut General Statutes. Buyer acknowledges that it has received and reviewed the environmental report specified on Exhibit C hereto (the "**Report**"), prepared for Seller with respect to the Premises. Seller represents that, to its actual knowledge, Seller has not received written notice of the violation of any Environmental Law (as hereinafter defined) which has not heretofore been corrected in compliance with applicable law. The term "Environmental Law" shall mean any federal, state or local law, rule or regulation relating to the regulation of any toxic, hazardous or radioactive materials or substances, such as but not limited to hazardous chemicals, asbestos and PCBs. Seller hereby disclaims any responsibility for the contents, accuracy or inaccuracy of the Report. Buyer acknowledges that Seller is not warranting, guaranteeing, affirming, or assuring in any manner whatsoever any of the information contained or referenced in the Report. Buyer has no right to rely on the Report, and Buyer has conducted and shall complete its own investigation as to the environmental and other condition of the Premises.

(c) Attached hereto as Exhibit D are correct and complete copies of two (2) Certifications of Zoning Compliance dated December 2, 1997, with respect to Buildings A, B and C (collectively known as 32 Weed Avenue), issued by the Norwalk Zoning Commission.

(d) Seller believes that the underground storage tanks on the Premises have been registered with the Connecticut Department of Environmental Protection, as required by applicable law.

(e) There are no material written agreements with respect to the management or operation of the Premises which will survive the Closing, except agreements between Service and Marriott Corporation and Cushman & Wakefield, as specified on Exhibit E hereto (the "**Management Agreements**"), and the Equipment Leases and Service Agreements. Seller has delivered to Buyer correct and complete copies of the Management Agreements and the

Equipment Leases and Service Agreements. Seller is not in material default under any of said agreements or leases and, to Seller's actual knowledge, nor are the other parties to said agreements or leases in material default thereunder.

(f) Neither Seller nor Service has had and does not currently have a license to sell wine, beer or liquor at the Premises. To Seller's actual knowledge, neither Seller nor Service has applied for and failed to receive such a license, nor has Seller or Service received written notice that its serving of wine, beer or liquor at the Premises violates applicable law. Seller shall further investigate the issue, and if Seller concludes that under applicable law a license is required for certain activities, it shall cease such activities.

(g) Seller is party to appeals of real estate taxes assessed upon the Premises and to a constitutional challenge to the assessment procedure utilized in Norwalk, as listed on Exhibit E hereto (collectively, the "**Tax Appeal**").

(h) Seller has accepted certain advance reservations for 1998, as described in a report entitled "1998 Bookings at the GTE Management Development Center", a copy of which is attached hereto as Exhibit G.

(i) There are no leases, tenancies or other rights of occupancy or use for any part of the Premises, except for the reservations specified on Exhibit G hereto and a master lease from Seller to Service, which master lease shall be terminated at or prior to the Closing.

(j) Pursuant to one or more blanket policies, which policies include commercially reasonable deductibles, Seller maintains replacement value property insurance on the Premises and Service maintains replacement value property insurance on the Personalty.

(k) There is no action, suit or proceeding, pending or, to the actual knowledge of Seller, threatened against or affecting the Premises, the Personalty or any portion thereof, at law or in equity or before any federal, state, municipal or governmental department, commission, board, bureau, agency or instrumentality.

(l) Seller has no actual knowledge of any pending or threatened condemnation or eminent domain proceedings which would affect the Premises.

(m) All materials and labor supplied or performed in connection with the operation or renovation of the Premises shall be paid for in full prior to Closing or adjusted by a credit to Buyer at the Closing.

(n) No legal proceeding has been commenced against Seller by a homeowners' association or by one or more neighboring property owners in the last five (5) years, except as described on Exhibit H hereto. Seller has had numerous meetings with the West Norwalk Association and/or other groups of neighboring homeowners, and Seller has permitted neighbors

to walk through the wooded areas on the Land, use the jogging trail and, from time to time, use other facilities on the Land or partake in holiday festivities at the Premises. To Seller's actual knowledge, there is no written agreement between Seller or Service and said Association or other groups of neighboring homeowners.

(o) To Seller's actual knowledge, the licenses, permits, operating certificates and registrations utilized for the operation of the Premises (including without limitation the nonlegend drug permit, the license to operate a food service establishment, radio station license, boiler operating certificate and elevator registration) (all of same herein collectively the "Licenses and Permits") are in full force and effect; and there is no proceeding or action pending or threatened with respect to the Licenses and Permits.

(p) To Seller's actual knowledge, no application has been made, pursuant to the Connecticut General Statutes, to establish an historic district at the Premises or any part thereof, nor for classification of any part of the Premises as open space land, farm land or forest land.

(q) There are no materials defaults by Seller or Service, nor, to Seller's actual knowledge, by the other parties under the Service Agreements.

(r) Attached hereto as Exhibit I is a list of the staff (the "**Management Personnel**") to be offered employment by Buyer, as hereinafter provided, including date of hire by Service. The salaries (exclusive of bonuses) of these employees has been provided to Buyer by letter dated December 19, 1997, from Maribeth Phillips to Beth Hinsdale.

(s) With respect to the Management Personnel, Seller represents that Service materially complies with all U.S. Immigration and Naturalization laws and regulations and that Service has not been cited for any violations of, or been the subject of, any investigations regarding, said laws or regulations within the past three (3) years.

(t) With respect to the Management Personnel, Seller represents that Service materially complies with all labor and employment laws, including but not limited to Title VII of the Civil Rights Act, 42 U.S.C. Section 2000e et seq., as amended by the Civil Rights Act of 1991; the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.; the Age Discrimination in Employment Act, 29 U.S.C. Section 621 et seq.; Section 1981 of the Civil Rights Act, 42 U.S.C. Section 1981 et seq.; the Employee Retirement Income Security Act, 29 U.S.C. Section 1001 et seq.; the Family and Medical Leave Act of 1993; the Fair Labor Standards Act; the Worker Adjustment Retraining and Notification Act; the Occupational Safety and Health Act; any Applicable Executive Orders, and/or other federal, state, county or municipal employment discrimination statutes (including claims based on age, race, sex, national origin, marital status, harassment, ancestry, handicap, disability, religion, sexual orientation, retaliation, and/or attainment of benefits plan rights). In addition, Seller represents that, with respect to the Management Personnel, Service has not been the subject of any investigations by any federal, state or local agency involving the actual or alleged violation of any of the above referenced

(u) Service has not been the subject of any consent decree, judgment or order (whether from a court, arbitrator, government or regulatory agency) in a matter involving Management Personnel within the last three (3) years.

(v) Service has not been the subject of any compliance review investigations involving Management Personnel conducted within the last three (3) years by any federal, state or local agency with authority pertaining to employment, compensation (including agencies responsible for compliance with all applicable wage and hour laws), benefits or taxation. Service has not entered into any conciliation agreements with any federal, state or local agency regarding Management Personnel.

(w) Service maintains all employment and personnel records on Management Personnel in material compliance with federal, state and local law.

(x) To Seller's actual knowledge, (A) Seller and Service have paid all required sales, use, hotel and other taxes required to be paid in connection with the operation of the Premises; and (B) as part of a sales tax audit of Service in 1996, any outstanding sales tax issues with respect to the Premises were resolved and any additional amount owed was paid.

5.4 Seller's Knowledge. As used herein, the term "Seller's actual knowledge" shall mean and be limited to the actual knowledge (as distinguished from constructive or imputed knowledge) of Ronald Kulpinski, Thomas Green and Emily Bowden.

5.5 Operation of Premises; Tax Appeal.

(a) Reservations. Between the date hereof and the Closing, Seller shall continue to operate the Premises in normal course and shall be entitled to retain any income therefrom. Seller shall not have the right to accept any new reservations from third parties without the prior written consent of Buyer, which consent may be withheld in Buyer's sole discretion. If Buyer shall not give notice of consent or rejection as to a proposed reservation within five (5) business days after notice from Seller, then Buyer shall be deemed to have rejected the reservation.

(b) Repairs. Seller shall, between the date hereof and the Closing, maintain the Premises in their present condition, subject to ordinary wear and tear and casualty, provided that Seller shall not be obligated to expend more than $200,000.00 in the aggregate for all such repairs to the Premises between the date hereof and the Closing, including emergency structural repairs and repairs under subsection (e) below. Seller's failure to make expenditures in excess

of such amounts shall not be a default by Seller hereunder. Repairs by Seller shall be ordinary and necessary repairs, to be completed utilizing workmanship and materials consistent with past practices at the Premises. In no event shall Seller be required to incur capital expenses between the date hereof and Closing, but Seller has completed the installation of the carpeting purchased and installation of which was contracted for prior to the date hereof.

(c) Tax Appeal. Seller shall have the right to prosecute the Tax Appeal. Seller has expended approximately $80,000 in the aggregate on the Tax Appeal to date. At or prior to the Closing, Buyer shall give notice to Seller whether Buyer desires to pursue one or both of the actions constituting the Tax Appeal subsequent to the Closing. To the extent not, Seller shall have the right to pursue same at its expense and to any refund of taxes resulting therefrom. If Buyer elects to pursue one or both of the actions constituting the Tax Appeal, then at the Closing, Buyer shall reimburse Seller for the amount expended to date on such part of the Tax Appeal and additional costs on such part incurred between the date hereof and the Closing, and Seller shall assign its rights to Buyer with respect to such part of the Tax Appeal.

(d) Transformer. Buyer's consultant believes that the main electric transformer serving the Premises is undersized and that CL&P has agreed to replace same with a larger transformer at the utility company's expense. In the period prior to Closing, Seller shall request such replacement from CL&P, and the parties shall cooperate with CL&P to replace such transformer, but Seller shall not be required to incur any third-party costs for such cooperation or for the installation of a new transformer, nor shall the agreement of CL&P or Seller to install a new transformer be deemed a condition to the Closing.

Article 6. Condemnation and Damage by Fire or Other Hazard.

6.1 Immaterial Damage or Taking.

If an immaterial part of the Premises and/or the Personalty is damaged by fire or other cause or is taken by eminent domain, this Agreement shall not be affected thereby and there shall be no reduction in the Purchase Price. Seller shall assign to Buyer at the Closing and Buyer shall accept an assignment of all of Seller's claims or rights under Seller's insurance policy or policies on the Premises and/or the Personalty and/or all of Seller's claims or rights to receive any condemnation awards, as applicable. If and to the extent that Seller shall have received the proceeds of any such claim or awards prior to the Closing Date, Seller shall credit to Buyer on the Closing Date:

(a) the actual amount of insurance monies collected by Seller with respect to such loss in case of destruction by fire or other cause and the amount of any deductible under the applicable policies; or

(b) the net amount received by Seller, in the case of a taking by eminent domain.

In any event, the assignment or the proceeds shall be reduced by the costs incurred by Seller as a result of the damage or condemnation, including, without limitation, counsel fees and costs of interim protection, appraisals, repair and restoration.

6.2 Material Damage or Taking.

If all or a material part of the Premises and/or the Personalty is damaged by fire or other cause, or is taken by eminent domain, Buyer may cancel this Agreement by notice to Seller given not later than ten (10) days after receipt of notice of such damage or of such taking (as the case may be) and, in such event, this Agreement shall be canceled and terminated, neither party shall have any further rights against the other and the Escrow Agent shall refund to Buyer the Deposit, but shall pay the Accrued Interest to Seller. If Buyer shall not cancel this Agreement, the Closing shall occur as scheduled, and the provisions of Section 6.1 shall control.

6.3 Definitions of Material and Immaterial.

For purposes of this Section, a material part of the Premises shall be deemed to have been damaged if the estimated cost to repair the damage shall be greater than $1,000,000 or if the damage shall materially adversely affect the customary operation of the Premises; otherwise, the damage shall be deemed to be immaterial. For purposes of this Section, a material part of the Premises shall be deemed to have been taken by eminent domain if (a) more than ten percent (10%) of the Premises shall be taken by eminent domain; or (b) access to the Premises shall be materially impaired; otherwise, the taking shall be deemed to be immaterial.

6.4 Maintenance of Insurance.

Seller agrees to maintain through the Closing Date the insurance policy or policies presently in force with respect to the Premises or insurance equivalent in amount and coverage.

Article 7. Seller's Closing Obligations.

7.1 Conditions. The obligation of Seller under this Agreement to sell the Premises and the Personalty is subject to fulfillment of each of the following conditions (any one or more of which may be waived in whole or in part by Seller in writing at or prior to Closing):

(i) The representations of Buyer set forth in Section 5.1 herein shall be true and correct as of the date of this Agreement and at the time of Closing.

(ii) Buyer shall have performed, in all material respects, all covenants, undertakings and obligations required to be performed by Buyer under this Agreement, and all other conditions to Seller's obligations, as set forth in this Agreement, shall have been complied with in all material respects.

(iii) If any of the conditions set forth in this Section are not fulfilled or waived in writing by Seller, then Seller shall not have the obligation to complete Closing hereunder.

At the Closing, Seller and Service, as applicable, shall execute, acknowledge and deliver the following to Buyer:

7.2 Deed; Bill of Sale.

A deed in the form of Exhibit J hereto, executed in proper form for recording so as to convey the title to the Premises required by this Agreement, and Service shall deliver one or more bill(s) of sale, in the form of Exhibit K hereto, covering the Personalty. Seller shall pay the state sales tax, if any, due on the sale of the Personalty.

7.3 Affidavits.

Such affidavits as Buyer's title company shall reasonably require in order to omit from its title insurance policy all exceptions for tenants and for unrecorded mechanics' liens, together with a certification that Seller is not a "foreign person" pursuant to Section 1445 of the Internal Revenue Code.

7.4 Transfer Taxes and Returns.

Executed conveyance tax returns and checks to the order of the appropriate officers in payment of all applicable real property conveyance taxes.

7.5 Other Required Documents.

(a) schedules certified correct by Seller containing the information required to calculate the apportionments described in Article 9 hereof;

(b) an assignment by Service of those Equipment Leases which are assignable and those Service Agreements, Licenses and Permits which are assignable, which assignment is in the form of Exhibit L hereto;

(c) appropriate forms of transfer for any registered motor vehicles included in the Personalty;

(d) consents from Cushman and Wakefield and Marriott Corporation to the assignment of the Management Agreements by Service to Buyer;

(e) a termination of the existing lease between Realty and Service covering the Premises, executed by both parties thereto; and

(f) all other documents required by this Agreement to be delivered by Seller. Service shall either deliver originals of Equipment Leases and Service Agreements at the Closing, or leave them in a designated part of the Premises, to the extent that Service has originals of same.

7.6 Notices to Third Parties. Promptly after the Closing, Seller shall send notices (in a form reasonably designated by Buyer) to equipment lessors, miscellaneous service providers and other interested third parties designated by Buyer, notifying them of the sale of the Premises to Buyer.

Article 8. Buyer's Closing Obligations.

8.1 Conditions. The obligation of Buyer under this Agreement to purchase the Premises and the Personalty is subject to fulfillment of each of the following conditions (any one or more of which may be waived in whole or in part by Buyer in writing at or prior to Closing):

(a) The representations of Seller set forth in Section 5.4 herein shall be true and correct as of the date of this Agreement and at the time of Closing.

(b) Seller shall have performed, in all material respects, all covenants, undertakings and obligations required to be performed by Seller under this Agreement, and all other conditions to Buyer's obligations, as set forth in this Agreement, shall have been complied with in all material respects.

(c) The Premises and the Personalty shall be in substantially the same condition and state of repair as at the date of this Agreement, ordinary wear and tear and casualty excepted.

(d) If any of the conditions set forth in this Section are not fulfilled or waived in writing by Buyer, then Buyer shall not have the obligation to complete Closing hereunder, the Deposit shall be returned to Buyer and the parties shall have no further liability hereunder.

8.2 Closing Obligations.

(a) At the Closing, Buyer shall deliver to Seller and to Service funds, complying with Section 2.3, in payment of the portion of the Purchase Price payable at the Closing, as adjusted pursuant to Article 9 herein. Buyer's title insurance company shall cause the deed to be recorded and cause all conveyance tax returns and checks in payment of such taxes to be delivered to the appropriate officers having jurisdiction over the Premises promptly after the Closing. Buyer shall execute and deliver one or more assumption agreements covering the Equipment Leases, Service Agreements, Licenses and Permits specified in this Agreement, in the form of Exhibit L hereto. In addition, Buyer shall deliver all other documents required by this Agreement to be delivered by Buyer.

(b) At the Closing, Buyer and Service shall execute the Employee Transfer Agreement in the form of Exhibit M hereto.

Article 9. Apportionments and Credits at Closing.

9.1 Items of Apportionment.

The following items shall be apportioned between the parties as of the Closing Date and paid at the Closing:

(a) real estate and all other taxes and assessments levied against or with respect to the Premises and the Personalty, in accordance with local custom, whether or not each item of Personalty is included on Exhibit B hereto;

(b) fuel oil in tanks based on the then-current price charged to Seller, and other utilities;

(c) reservations - Buyer shall be credited with advance payments made to Seller which are allocable to the period post-Closing, and payments for current users of the facility shall be allocated between the parties as of midnight of the day preceding the Closing Date;

(d) advance deposits and security deposits made by Seller to others with respect to the Premises or the Personalty - Seller shall receive credit for same; and

(e) Equipment Leases and the Management and Service Agreements.

9.2 Mistakes in Apportionments.

Any error in calculation or payment of the items apportioned at Closing shall be corrected within 120 days subsequent to the Closing.

9.3 Credit.

In consideration of Buyer assuming certain obligations of Seller with respect to the Premises, Buyer shall receive a credit of $250,000 against the Purchase Price.

Article 10. Broker.

The parties hereto recognize Cushman & Wakefield and Garibaldi Realty as the brokers who negotiated the sale of the Premises. Seller shall compensate Cushman & Wakefield, and Buyer shall compensate Garibaldi Realty, for such services pursuant to separate agreements. This Agreement is consummated by Seller in reliance upon the representation of Buyer that no other broker or agent brought the Premises to Buyer's attention or was, in any way, the procuring cause of this sale and purchase. Seller represents to Buyer that no other broker or agent has any exclusive sale or exclusive agency listing on the Premises, nor did Seller deal with any other broker or agent in connection with this sale and purchase. Each party shall indemnify and hold the other harmless from any liability resulting from a breach of such party's representation under this Section, said indemnity to include all costs of defending any such claim, including reasonable counsel fees. The provisions of this Section shall survive the Closing or, if the Closing does not occur, the termination of this Agreement.

Article 11. Defaults and Indemnification

11.1 Default by Seller.

In the event of a default by Seller under this Agreement, Buyer shall be limited to the remedy of specific performance. In such event, however, Buyer shall have the right to declare this Agreement terminated, in which event the Escrow Agent shall promptly return the Deposit, together with the reasonable cost incurred by Buyer for examination of title to the Premises, not to exceed $1,500. In the event of such termination and payment by the Escrow Agent, neither party shall have any further liability to the other hereunder.

11.2 Default by Buyer.

If Buyer fails to close under this Agreement, Buyer shall forfeit all claims to the Premises described herein, and the Deposit and Accrued Interest shall be construed as liquidated damages to and paid by the Escrow Agent to and retained by Seller as Seller's sole remedy. The actual tender of the deed shall not be necessary if Buyer has clearly indicated, prior to the date of Closing, that it will not or cannot make the payments agreed upon. In the event of such default, Buyer waives any right to claim the return of any portion of the Deposit or Accrued Interest, despite the reason for the default and/or the amount of actual damages incurred by Seller.

11.3 Management Agreements.

(a) From and after the Closing, Buyer shall assume all of the obligations of Seller under the Management Agreements, and Buyer shall indemnify, defend and hold harmless Seller from any claims (including reasonable counsel fees) with respect to any claim or liability under the Management Agreements, the Equipment Leases and Service Agreements accruing on or after the Closing Date.

(b) Seller shall indemnify, defend and hold harmless Buyer from any claims (including reasonable counsel fees) with respect to (i) any claim or liability under the Management Agreements, the Equipment Leases and Service Agreements accruing prior to the Closing Date; (ii) any sales taxes, use taxes, hotel and other taxes payable in connection with the operation of the Premises prior to the Closing; and (iii) any worker's compensation claims filed on or before the Closing Date by an employee of Seller or Service at the Premises or filed thereafter by such employee but relative to a claim which accrued prior to the Closing Date.

(c) The party seeking indemnity hereunder shall, promptly after receiving written notice of a claim, give notice of such claim to the other party and shall cooperate with the other party in defending against such claims. The indemnifying party may assume the defense of such claim with counsel of its choice, and in such event the party seeking indemnity shall not claim counsel fees thereafter incurred with respect to such claim, so long as the indemnifying party shall defend against such claim.

(d) This Section shall survive the Closing.

11.4 Management Personnel.

(a) Seller shall indemnify defend and hold harmless Buyer from any claims (including reasonable counsel fees) with respect to the Management Personnel resulting from an alleged violation by Seller, Service or any of their affiliates prior to the Closing Date, of any of

the employment laws, regulations, practices or procedures referred to in subsections 5.4(s) through (w) herein.

(b) Buyer shall indemnify defend and hold harmless Seller from any claims (including reasonable counsel fees) with respect to the Management Personnel resulting from an alleged violation by Buyer or any of its affiliates on or after the Closing Date of any of the employment laws, regulations, practices or procedures referred to in subsections 5.4(s) through (w) herein.

(c) The party seeking indemnity hereunder shall, promptly after receiving written notice of a claim, give notice of such claim to the other party and shall cooperate with the other party in defending against such claims. The indemnifying party may assume the defense of such claim with counsel of its choice, and in such event the party seeking indemnity shall not claim counsel fees thereafter incurred with respect to such claim, so long as the indemnifying party shall defend against such claim.

(d) This Section shall survive the Closing for the period of the applicable statute of limitations with respect to a violation of each of such employment laws, regulations, practices or procedures. Anything in Section 15.1 herein to the contrary notwithstanding, obligations under this Section shall survive for such applicable period after the Closing.

11.5 Due Diligence Items

(a) Based upon its due diligence investigation of the Premises, Buyer has alleged certain deficiencies with respect to the Premises, involving (i) the replacement or upgrading of underground storage tanks on the Premises; (ii) the registration of and/or making improvements to the three (3) dams on the Land; (iii) possible violations of one or more Environmental Laws with respect to the Premises; and (iv) possible other violations of law, including without limitation fire codes and/or building codes. Said alleged deficiencies are herein collectively called the "**Due Diligence Items**".

(b) In order to settle disagreements with respect to the Due Diligence Items, Seller has agreed to give Buyer a credit of $250,000 against the Purchase Price pursuant to Section 9.3 herein. Accordingly, Buyer shall indemnify and hold harmless Seller from any claims (including reasonable counsel fees) with respect to (i) Buyer's failure to correct any deficiencies in the Due Diligence items existing as of the Closing Date, and (ii) Buyer's actions or omissions with respect to the Due Diligence Items subsequent to the Closing Date; provided that in no event shall Buyer's liability under this subsection (b) exceed an aggregate of $250,000.

(c) Seller shall promptly after receiving written notice of a claim with respect to one or more of the Due Diligence Items, give notice of each such claim to Buyer and shall

cooperate with Buyer in defending against such claims. Buyer may assume the defense of such claim with counsel of its choice, and in such event Seller shall not claim counsel fees thereafter incurred with respect to such claim, so long as Buyer shall defend against such claim.

(d) This Section shall survive the Closing.

Article 12. Notices.

Except as otherwise specifically provided in this Agreement, all notices, demands, requests, consents, approvals or other communications required or permitted to be given hereunder or which are given with respect to this Agreement shall be in writing and shall be deemed to have been properly given when delivered in person or by overnight or similar courier service or sent by tested telex, telegram or telecopier or three (3) days after having been deposited in any post office, branch post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage pre-paid, addressed to the party to be notified at its address first above set forth or to such other address as such party shall have specified most recently by like notice. Notices to Seller (or either entity comprising Seller) shall be sent Att: Mr. Ronald Kulpinski. Notices to Buyer shall be sent Att: Mr. Edward Rytter.

(a) At the same time any Notice is given to Seller, a copy thereof shall be sent as provided above to: Day, Berry & Howard, One Canterbury Green, Stamford, Connecticut 06901-2047, Attention: Jerome Berkman, Esq.

(b) At the same time any notice is given to Buyer, a copy thereof shall be sent as provided above to: Robinson Silverman Pearce Aronsohn & Berman LLP, 1290 Avenue of the Americas, New York, NY 10104, Att: Barry C. Ross, Esq.

Article 13. Assignment.

Buyer shall not assign this Agreement without the prior written consent of Seller, which consent may be withheld in Seller's sole discretion, and any assignment in violation of this Agreement shall be null and void.

Article 14. Access to Premises.

Seller shall permit Buyer and Buyer's representatives, upon reasonable notice, to enter the Premises at reasonable hours for the purpose of completing its due diligence and conducting one or more final inspections of the Premises and the Personalty prior to Closing, provided that any such entry on the Premises shall be specifically authorized by Edward Rytter and that same shall not interfere with Seller's operation of the Premises. Buyer shall indemnify and hold Seller

harmless with respect to any damage or claims for damage made against Seller as the result of any of Buyer's activities on the Premises prior to the Closing.

Article 15. Survival and Post-Closing Obligations.

15.1 Survival.

(a) Except as otherwise specified in this Agreement, Seller's representations under this Agreement shall survive Closing until July 31, 1998 (the "Survival Date"), and shall not be deemed to have merged into the deed. Seller shall have no liability to Buyer for any alleged breach of a surviving representation made in this Agreement, unless written notice thereof is given by Buyer to Seller prior to the Survival Date, which notice shall state the nature of any such alleged breach with reasonable specificity, in which event the claim stated in said notice shall survive for a period of one (1) year from the date of such notice. If no suit is commenced within said one (1) year period, the claim shall be void and of no effect.

(b) Except as otherwise provided in this Agreement, no representations, warranties, covenants or other obligations of Seller set forth in this Agreement shall survive the Closing, and no action based thereon shall be commenced after the Closing.

(c) The delivery of the deed by Seller, and the acceptance thereof by Buyer, shall be deemed the full performance and discharge of every obligation on the part of Seller to be performed hereunder, except those obligations of Seller which are expressly stated in this Agreement to survive the Closing.

(d) Buyer further releases and discharges Seller from any and all claims or causes of action which Buyer may now have or hereafter have against Seller, in connection with or arising out of the condition of, the Premises as of the Closing Date, except as provided in this Agreement.

15.2 Post-Closing Obligations

(a) Name of Center. All press releases issued or other publicity materials distributed in connection with the transaction contemplated herein shall make reference to the proposed change in the name of the Premises only in terms of such change occurring at an unspecified future date. Subject to any removal required by the City, the monument sign bearing the name "GTE Management Development Center" currently located on the Land will remain in place until October 31, 1998 (or such earlier date designated by Seller), and Buyer shall not be entitled to erect any exterior signage bearing its name until such date. Seller shall be responsible for the maintenance of said sign and Buyer shall have no maintenance obligation whatsoever with respect thereto. In addition, until October 31, 1998 (or such earlier date

designated by Seller), Seller shall be entitled to (i) maintain all currently existing interior signage and (ii) erect and maintain such free-standing, temporary signage as it reasonably deems appropriate. Notwithstanding anything herein to the contrary, however, after the Closing, Buyer shall be allowed to erect such signage on the interior of the Premises and utilize such stationery and other promotional materials bearing its name and/or logo that it deems appropriate. Notwithstanding the foregoing or any other provision of this Agreement, (x) no right or license, express or implied is granted to Buyer under any of Seller's trademarks, service marks or trade names, and Buyer shall not use or cause to be registered the same or any similar trademarks, service marks or trade names; and (y) no right or license, express or implied is granted to Seller under any of Buyer's trademarks, service marks or trade names, and Seller shall not use or cause to be registered the same or any similar trademarks, service marks or trade names.

(b) Employment. Buyer shall employ the Management Personnel pursuant to the terms of the Employee Transfer Agreement.

(c) GTE Use of Center. Until October 31, 1998, Seller shall be entitled to up to ten (10%) percent of the available capacity of the Premises at any given time, including guest rooms, meeting and training facilities and dining facilities, for its use in connection with meetings, training seminars, dinners, lunches or any other functions it may wish to hold, subject to reasonable advance reservations accepted by Buyer, which reservations may be by Buyer, affiliates of Buyer or third parties. Buyer shall charge Seller its preferred rate for all functions held at the Premises, i.e. the rate charged to the best customers of the Premises, such as Champion International Corporation for the period prior to Closing. Buyer acknowledges that Seller may not be able to, and shall not be required to, provide advance notice of all functions it shall hold at the Premises. Seller shall, however, use reasonable efforts to provide Buyer at least 24 hours' advance notice of all functions, and Buyer shall use reasonable efforts to accommodate all requests of Seller, especially requests by Seller for lunches and dinners at the Premises.

(d) Settlement of Tax Appeal. If Buyer elects to pursue one or both of those cases comprising the Tax Appeal and shall successfully conclude any of such cases, then Buyer shall promptly pay to Seller a portion of the net recovery (which may be in the form of a refund and/or a credit against future real estate taxes) equal to a prorated refund for the years in which such taxes had been paid by Seller. Any such recovery shall be net of Buyer's costs of collection, including without limitation amounts paid by Buyer to Seller at Closing pursuant to subsection 5.6(c) herein. In the event that all or a portion of the net recovery to which Seller is entitled is accomplished through a credit against future real estate taxes, Buyer shall pay to Seller the value of its portion of the tax credit as and when the credit is applied. If the parties hereto cannot agree on the amount of the net recovery to be apportioned to Seller, the parties shall appoint an attorney admitted to practice in the State of Connecticut with experience in real estate tax appeals to make the determination. If the parties cannot agree on such attorney, at the request of either party, the designation will be made by an officer of the Stamford-Norwalk Regional Bar Association, provided that such officer shall not be affiliated with a law firm

representing either of the parties. The decision of such attorney shall be binding and conclusive on the parties.

(e) Operational Records. Seller shall, on or before the Closing, remove its operational records from the Premises. If Buyer shall, from time to time, require access to certain of such records for reasonable business requirements, Seller shall cooperate and make such specific records available during business hours at Seller's headquarters building, on reasonable advance notice from Buyer.

15.3 Disaster Recovery System.

(a) GTE Corporation shall be permitted to maintain, without charge, its backup disaster recovery system (the "System") in the telephone switch room (the "Switch Room") on the basement level of the Main Building, through January 31, 1999. The equipment currently comprising the System, which is excluded from the Personalty, is specified on Exhibit B-3 hereto, subject to replacement of such equipment from time to time. The System is designed to permit continued operation of the GTE business in the event of a disaster which prevents full utilization of its Stamford, CT headquarters to perform routine cash management functions.

(b) The parties shall reasonably cooperate to limit access to the Switch Room to authorized personnel employed by Buyer and by or with special authority from GTE Treasury Services (the "GTE Treasury Services Personnel"), which limited access is required 24 hours per day, seven (7) days per week. Buyer shall provide Service with the identities of its security personnel having access to the Switch Room. Buyer shall make commercially reasonable efforts to protect the System from damage by Buyer's personnel and third parties. The T-1 links, the IP addresses specified on Exhibit N hereto, LAN/WAN connectivity and all the existing telephone lines specified on Exhibit N hereto shall be maintained for so long as the System is operational. Prior to the Closing, the parties shall determine an equitable method of cost-sharing for the T-1 line, which is also utilized by the Center.

(c) Service shall provide Buyer with the identities of all GTE Treasury Services Personnel having access to the System and shall cause such individuals to cooperate with Buyer and comply with Buyer's reasonable security measures. Service shall make diligent efforts to protect Buyer's equipment located in the telephone switch room from damage by GTE Treasury Services Personnel. Service shall maintain adequate insurance on the System and in the case of casualty, Buyer shall have no liability to Service for any damage thereto. In connection with the operation of the System, Seller shall comply with applicable laws, rules and regulations.

(d) During normal operations, there shall be weekly visits of GTE Treasury Services Personnel to conduct maintenance and testing, and monthly visits to perform live testing of the equipment comprising the System. Seller shall use diligent efforts to insure that such weekly and monthly monitoring of the System shall not interfere with Buyer's normal use

of the Switch Room. Buyer shall have no obligation to perform any maintenance services on the System. In the event of a short term emergency, up to approximately 20 GTE employees shall be required at the Premises to operate the System, 24 hours per day, and in the event of a longer-term disruption, up to approximately 40 employees shall be required at the Premises to operate the System. In such event, Buyer shall cooperate to make a larger room available to the authorized GTE employees, as reasonably required, and Seller shall pay to Buyer the fair market rental value of such alternative space that it utilizes.

(c) Seller shall, on not less than five (5) business days' notice to Buyer, remove the System on or before January 31, 1999, and shall repair any damage to the Premises resulting from such removal.

Article 16. Miscellaneous Provisions.

16.1 Entire Understanding.

This Agreement embodies and constitutes the entire understanding between the parties with respect to the transactions contemplated herein, and all prior agreements, understandings, representations and statements, oral or written (including without limitation the Letter of Intent dated November 21, 1997, between Realty and Buyer, as amended, but excluding the Confidentiality Agreement hereinafter described), are merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

16.2 Governing Law.

This Agreement shall be governed by, and construed in accordance with, the law of the State of Connecticut, without regard to the conflicts of law provisions thereof.

16.3 Captions.

The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

16.4 Execution by Service.

Service has joined in the execution of this Agreement to acknowledge its limited obligations hereunder.

16.5 Like-Kind Exchange. Seller shall cooperate reasonably with Buyer in effecting an exchange transaction which includes the Premises, pursuant to Section 1031 of the United States Internal Revenue Code, provided that any such exchange transaction, and the related documentation shall: (a) be at the sole cost and expense of Buyer, (b) not require Seller to make any commitment, or incur any obligations, contingent or otherwise, to third parties, (c) not cause Seller to be liable or potentially liable for any environmental conditions affecting property other than the Premises, (d) not delay the Closing or the transactions contemplated by this Agreement, (e) not include Seller's acquiring title to any property other than the Premises, and (f) not otherwise be contrary to or inconsistent with the terms of this Agreement. Notwithstanding anything to the contrary contained herein, Seller is not to incur any, and Buyer shall reimburse, indemnify and hold Seller harmless from, any and all costs, expenses and liabilities incurred solely from Seller's accommodation of such tax deferred exchange, including, without limitation, reasonable attorneys' fees, and any title or escrow fees or expenses. The obligations of the parties under this Section shall survive the execution and delivery of this Agreement and the Closing and shall not be merged therein.

16.6 Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns.

16.7 Construction; Recording

As used in this Agreement, the singular shall include the plural and the plural shall include the singular, as the context may require. Each and every provision of this Agreement has been mutually negotiated, prepared and drafted, each party has been represented by legal counsel, and, in connection with the construction of any provision hereof or deletions herefrom, no consideration shall be given to the issue of which party actually negotiated, prepared, drafted or requested any provision or deletion. Neither party shall record this Agreement on the Norwalk Land Records, and any such recordation shall be a default hereunder by the responsible party.

16.8 Execution and Delivery.

Delivery of this Agreement for inspection or otherwise by Seller to Buyer and/or its attorneys shall not constitute an offer or create any rights in favor of Buyer or others and shall in no way obligate or be binding upon Seller, and this Agreement shall have no force or effect unless and until the same is fully executed and delivered by the parties and fully executed copies exchanged by the parties hereto. Delivery of the executed Agreement may be made by facsimile, provided that if delivery is made by facsimile, the original executed Agreement shall be sent to the other party on the same day by nationally recognized overnight courier service that provides tracking and proof of receipt of items mailed for next business day delivery.

16.9 Counterparts. This Agreement may be executed in any number of identical counterparts. If so executed, each such counterpart shall constitute this Agreement. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

16.10 Litigation Expenses.

In the event of any litigation regarding the rights and obligations of the parties under this Agreement, the prevailing party shall be entitled to recover reasonable counsel fees, court costs and other direct litigation expenses.

16.11 Confidentiality.

The terms of the Confidentiality Agreement between the parties dated November 17, 1997, a copy of which is attached hereto as Exhibit O, are hereby incorporated by reference.

- REMAINDER OF PAGE INTENTIONALLY LEFT BLANK -

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the date first above written.

Seller: GTE REALTY CORPORATION

By: _____
Ronald W. Kulpinski, President

Buyer: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

By: _____
Edward A. Rytter
Vice President, Corporate Real Estate

Escrow Agent:
DAY, BERRY & HOWARD

By: _____
Jerome Berkman, Partner

GTE SERVICE CORPORATION

By: _____
Thomas W. Green, Vice President

and

By: _____
Ronald Tuccillo, Assistant Secretary

STATE OF CONNECTICUT)
) ss: Stamford
COUNTY OF FAIRFIELD)

The foregoing instrument was acknowledged before me this 16th day of January, 1998, by Ronald W. Kulpinski, President of GTE Realty Corporation, a Connecticut corporation, on behalf of the corporation.

Commissioner of Superior Court
Notary Public
My Commission Expires: ____

STATE OF CONNECTICUT)
) ss: Stamford
COUNTY OF FAIRFIELD)

The foregoing instrument was acknowledged before me this ___th day of January, 1998, by Thomas W. Green, Vice President of GTE Service Corporation, a New York corporation, on behalf of the corporation.

Commissioner of Superior Court
Notary Public
My Commission Expires: ____

STATE OF CONNECTICUT)
) ss: Stamford
COUNTY OF FAIRFIELD)

The foregoing instrument was acknowledged before me this ___th day of January, 1998, by Ronald Tuccillo, Assistant Secretary of GTE Service Corporation, a New York corporation, on behalf of the corporation.

Commissioner of Superior Court
Notary Public
My Commission Expires: ____

STATE OF CONNECTICUT)
) ss: Stamford
COUNTY OF FAIRFIELD)

The foregoing instrument was acknowledged before me this 16th day of January, 1998, by Edward A. Rytter, Vice President Corporate Real Estate of The Prudential Insurance Company of America, a New Jersey corporation, on behalf of the corporation.

_____
Notary Public
My Commission Expires:____

STATE OF CONNECTICUT)
) ss: Stamford
COUNTY OF FAIRFIELD)

The foregoing instrument was acknowledged before me this 16th day of January, 1998, by Jerome Berkman, Partner of Day, Berry & Howard, a Connecticut general partnership, on behalf of the partnership.

_____
Commissioner of Superior Court
Notary Public
My Commission Expires: ____

EXHIBIT A

All that certain piece or parcel of land, together with the buildings and improvements thereon, located in the City of Norwalk, County of Fairfield and State of Connecticut, and shown on a certain map entitled "Map of Property Prepared for The Holy Ghost Fathers, Norwalk, Conn." dated Dec. 22, 1969 certified substantially correct by Leo Leonard C.E. and L.S., which map is on file in the Norwalk Town Clerk's office as Map #7293. Said map incorrectly states that said parcel contains 50.3371 acres. The acreage is corrected to read 66.5096 on a certain map entitled "Map of The G.T.E. Advanced Management Education Center at Norwalk, Conn." prepared by Leo Leonard C.E. and L.S. dated September 10, 1979. Said parcel is generally bounded and described as follows:

WESTERLY:	by Weed Avenue;
NORTHERLY:	by land now or formerly of Alfred C.B. McNevin, by land now or formerly of the Estate of Carmine Bucciarelli, by land now or formerly of Lynn A. and Ada Lee Strenkert, and by land now or formerly of Charles H. and Jane M. Mittel, each in part;
EASTERLY:	by Sections B-1 and B-2 of Flower Estates, as shown on Maps 5068 and 5069 on file in the Norwalk Town Clerk's Office;
SOUTHERLY:	by land now or formerly of Bruce Learned;
EASTERLY AGAIN:	by land now or formerly of Bruce Learned;
SOUTHERLY AGAIN:	by land now or formerly of Faith Baldwin Guthrell;
WESTERLY AGAIN:	by land now or formerly of the South Norwalk Knights of Columbus Home Association, Inc.; and
SOUTHERLY AGAIN:	by land now or formerly of the South Norwalk Knights of Columbus Home Association, Inc.

Reference to said map is hereby made for a more particular description of said parcel.

TOGETHER WITH all right, title and interest of Seller under an easement from Patsy J. Cutrone, Trustee dated June 9, 1980 recorded in Volume 1293 at Page 86 of the Norwalk Land Records ("NLR").

TOGETHER WITH all right, title and interest of Seller under an easement from Joseph Palumbo and Lorraine Palumbo dated June 10, 1980 and recorded in Volume 1293 page 82 NLR.

EXCLUDING the real property taken by Certificate of Taking dated July 28, 1983 and recorded in Volume 1506 at Page 75 NLR.

Said Premises shall be conveyed subject to the following:

1. Taxes of the City of the List of October 1, 1996, second half due January 1, 1998.

2. Taxes of the City of the List of October 1, 1997, due July 1, 1998 and January 1, 1999.

3. Reservations in the deed from The Congregation of the Holy Ghost and of the Immaculate Heart of Mary, Incorporated, to GTE Realty Corporation dated 5/30/80 and recorded in Volume 1291 page 28 NLR.

4. Rights and easements of others in and to "Little Fox Lane" and the accessway to the cemeteries on the Premises.

5. Present effect, if any, of Mechanics Lien by Liner-Atwill Company for $44,451.08 dated 2/14/83 and recorded in Volume 1460 page 201 NLR.

6. Easement rights taken by the City of Norwalk as described in the Certificate of Taking dated 7/28/83 and recorded in Volume 1506 page 75 NLR.

7. Effect, if any, of City of Norwalk Planning and Zoning Commission Certificates as follows:

(a) Dated 4/25/80 recorded in Volume 1299 page 125 NLR.

(b) Dated 1/13/87 recorded in Volume 1979 page 255 NLR.

(c) Dated 11/21/91 recorded in Volume 2609 page 58 NLR.

(d) Dated 1/28/94 recorded on 1/5/98 at 2:46 p.m. in the NLR.

8. Agreements and obligations in easement from Joseph Palumbo and Lorraine Palumbo dated June 10, 1980 and recorded in Volume 1293 page 82 NLR.

9. Drainage easements and notes and conditions as shown on Map No. 7293.

laws or regulations, and has not been a party to any actual or threatened legal action (including attorney letters), alleging the violation of any of the above referenced laws or regulations by any Management Personnel.

(u) Service has not been the subject of any consent decree, judgment or order (whether from a court, arbitrator, government or regulatory agency) in a matter involving Management Personnel within the last three (3) years.

(v) Service has not been the subject of any compliance review investigations involving Management Personnel conducted within the last three (3) years by any federal, state or local agency with authority pertaining to employment, compensation (including agencies responsible for compliance with all applicable wage and hour laws), benefits or taxation. Service has not entered into any conciliation agreements with any federal, state or local agency regarding Management Personnel.

(w) Service maintains all employment and personnel records on Management Personnel in material compliance with federal, state and local law.

(x) To Seller's actual knowledge, (A) Seller and Service have paid all required sales, use, hotel and other taxes required to be paid in connection with the operation of the Premises; and (B) as part of a sales tax audit of Service in 1996, any outstanding sales tax issues with respect to the Premises were resolved and any additional amount owed was paid.

5.4 Seller's Knowledge. As used herein, the term "Seller's actual knowledge" shall mean and be limited to the actual knowledge (as distinguished from constructive or imputed knowledge) of Ronald Kulpinski, Thomas Green and Emily Bowden.

5.5 Operation of Premises; Tax Appeal.

(a) Reservations. Between the date hereof and the Closing, Seller shall continue to operate the Premises in normal course and shall be entitled to retain any income therefrom. Seller shall not have the right to accept any new reservations from third parties without the prior written consent of Buyer, which consent may be withheld in Buyer's sole discretion. If Buyer shall not give notice of consent or rejection as to a proposed reservation within five (5) business days after notice from Seller, then Buyer shall be deemed to have rejected the reservation.

(b) Repairs. Seller shall, between the date hereof and the Closing, maintain the Premises in their present condition, subject to ordinary wear and tear and casualty, provided that Seller shall not be obligated to expend more than $200,000.00 in the aggregate for all such repairs to the Premises between the date hereof and the Closing, including emergency structural repairs and repairs under subsection (e) below. Seller's failure to make expenditures in excess

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DOMESTIC NUCLEAR EXPOSURE

When your work involves a nuclear facility, the following items should be considered:

1. ON-SITE PROPERTY DAMAGE

Direct Damage - A supplier should not assume any liability for on-site property damage due to the "nuclear energy hazard" and should request that they be held harmless for all damage resulting from the "nuclear energy hazard", including that damage caused by the supplier's negligence. At this time, it is not possible for a supplier to buy insurance to cover on-site property damage. It should be noted that the term "nuclear facility" embraces not only electric utilities with nuclear generating stations but also nuclear fuel fabricators, nuclear waste repositories, research reactors and the like. The Nuclear Regulatory Commission (NRC) currently requires electric utilities to purchase nuclear property damage insurance for their nuclear power plants. However, other nuclear facilities are not required by law to purchase this insurance. It has been our experience that contractors/suppliers who work with/at these facilities require the owners of the facility to buy nuclear property insurance. The following are examples of wording typical of that found in contracts between contractors/suppliers and nuclear facilities:

Nuclear Insurance (Property)

1. "...The purchaser shall secure and maintain in force, or cause to be secured and maintained in force, property damage insurance in the form of a policy issued by the American Nuclear Insurers (ANI) and/or the Mutual Atomic Energy Reinsurance Pool (MAERP), or equivalent coverage, covering all property at the site. Said property damage insurance shall be maintained in effect from the time the nuclear fuel arrives at the project site..."

2. "...From the time nuclear fuel first arrives at the site of the project until completion of the work under this agreement, Owners shall obtain and maintain in effect, in an amount equal to the maximum limits available, Nuclear Property Damage Insurance applicable to occurrences (nuclear and non-nuclear) at the site of the project. Such insurances shall be in the form of a policy from the American Nuclear Insurers (ANI) and/or the Mutual Atomic Energy Reinsurance Pool (MAERP), or equivalent insurance policy covering all property at the project site..."

3. "...For its own protection and the protection of the Contractor and the Contractor's suppliers and subcontractors of every tier, notwithstanding any other provision of this agreement, Buyer shall, without cost to the Contractor, secure and maintain in force property damage insurance in the form of a policy from the American Nuclear Insurers (ANI) and/or the Mutual Atomic Energy Reinsurance Pool (MAERP), or equivalent insurance (with the prior written approval of the Contractor) covering site property at _____. Such property damage insurance shall be maintained in effect from the time source material, special nuclear material or by-product material, as those materials are defined in the Atomic Energy Act of 1954, as amended, first arrives at _____.

   "The term 'site property' shall include all property at _____ including, but not limited to, materials and equipment to be incorporated in or used in connection with the project but shall not include vehicles licensed for highway use except when such vehicles are being used for the servicing of or in connection with the operation of the property covered by the policy at _____."

4. "...Purchaser will obtain All Risk Nuclear Property Insurance from American Nuclear Insurers (ANI) and/or Mutual Atomic Energy Reinsurance Pool, or its equivalent, such insurance to be effective from the time of the arrival of fuel at the site. Such insurance shall be continued in effect until the plant shall have been decommissioned and all radioactive materials shall have been transferred from the site and removed from any location which is under Purchaser's control or could be covered by Purchaser-procured insurance of the type described in this paragraph."

If the owner does purchase nuclear property insurance the policy contains an automatic waiver of subrogation for any loss in the case of NML, but only for loss due to the "nuclear energy hazard" in the case of ANI/MAERP. This waiver is as follows:

NML Policies:

"SUBROGATION

(a) except as provided in (b), the insurer may require from the Insured(s) an assignment of all right of recovery against any party for loss to the extent that payment therefore is made by the Insurer; however, prior to a loss, the Insured(s) may waive in writing any and all right of recovery against any party for loss occurring to property covered hereunder.

(b) The Insurer hereby waives any right of subrogation, acquired by reason of any payment under this Policy arising out of any loss covered hereunder, against the Insured(s) and any party furnishing services, materials, parts, or equipment in connection with planning, construction, maintenance, operation or use of property covered hereunder.

It is a condition of this policy that the Insured(s) shall repay to the Insurer any recoveries made by the Insured(s) on account of any such loss to the extent that the Insurer would have been entitled to such recoveries had this waiver not been included in this Policy."

ANI Policies:

"SUBROGATION

(a) Except as provided in (b), the Insurers may require from the Insured an assignment of all right of recovery against any party for loss to the extent that payment therefore is made by the Insurers; however, prior to a loss, the Insured may waive in writing any or all right of recovery against any party for loss occurring to the property covered hereunder.

(b) The Insurers hereby waive any right of subrogation acquired against any party furnishing services, materials, parts, or equipment in connection with planning, construction, maintenance, operation, or use of property covered hereunder by reason of any payment under this policy arising out of any loss resulting from the radioactive, toxic, explosive or other hazardous properties of "source material", "special nuclear material" or "by-product material"

as such terms are defined in the Atomic Energy Act of 1954 or any law amendatory thereof.

It is a condition of this policy that the Insured shall repay to the Insurers any recoveries made by the Insured on account of any such loss to the extent that the Insurers would have been entitled to such recoveries had this waiver not been included in this policy."

Whether or not the owner maintains nuclear property insurance, the "Hold Harmless" should still be sought because:

(1) The nuclear property policies will carry a deductible which ranges from $50,000 to $10,000,000,

(2) The maximum amount of property insurance available may be less than the nuclear facility values; and,

(3) The owner may prefer to sue a contractor/supplier to recover damages rather than collect on his insurance.

Since the nuclear property policies contain a section which allows the insured to waive all rights of recovery for any loss covered by the policy if done so in writing and prior to the loss, a supplier should make this waiver for any loss a part of the contract. The following are samples of property damage waivers and "Hold Harmless" agreements:

WAIVERS

1. "...The owner hereby waives all rights of recovery against the contractor, its employees, suppliers and subcontractors and agrees to hold them harmless for any damage to any property at the site which occurs subsequent to the first arrival of nuclear material at the site and is caused by the nuclear energy hazard."

2. "...Owner will waive all right of subrogation against the contractor and its subcontractors for physical damage to or loss or destruction of any property at the site, provided such damage, loss or destruction results from a nuclear incident. To the extent not covered by the owner's insurance, this waiver will not affect the contractor's obligations under the warranty provided herein to correct defects in workmanship and materials; however, this waiver is effective with respect to

damage arising as a consequence of such defects. In the event owner recovers damage from an insurer based on losses at the site resulting from the hazardous properties of source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954, as amended, the owner will indemnify the contractor and its subcontractors against all claims by such insurer which are based on the owner's recovery of such damages."

3. "...Neither the contractor nor its suppliers shall have any liability to owner or its insurers for nuclear damage to any property located at the site. To the extent that owner recovers damages from a third party for nuclear damage to which the foregoing waiver applies, owner shall indemnify the contractor and its suppliers against any liability for any damages which such third party recovers over from the contractor for such nuclear damage."

4. Neither the vendor nor its suppliers shall have any liability to owner-licensee or its insurers for any nuclear damage to any property located at the site and owner-licensee indemnifies the vendor and its suppliers of any tier against any liability for any such nuclear damage. As used herein, "site" means the area identified as the "location" in the nuclear liability insurance policy, or in the governmental indemnity agreement issued to the owner-licensee pursuant to the acts and applicable regulations thereunder, or both; "liability" means liability of any kind at any time whether in contract, tort (including negligence), or otherwise; "nuclear damage" means loss, damage, or loss of use, attributable in whole or in part, directly or indirectly to a nuclear incident; and "supplier" means any vendor, subcontractor, or other person, regardless of tier, who furnishes equipment, material, or services in connection with the work. At the vendor's request, the owner-licensee will furnish any supplier with a statement of the protection available to it. This provision will not affect the vendor's obligation under the warranty provisions.

5. "...Under no circumstances will Supplier have any responsibility or liability for any damage to property on or off site or for injury to any person (including death), or for any pollution or

contamination of the atmosphere, public or private waterways, or the lands of Buyer or others, notwithstanding negligence on the part of the Supplier, its vendors and/or subcontractors or otherwise, when such damage, injury, pollution or contamination results directly or indirectly from nuclear reaction, nuclear radiation, radioactivity or contamination - both controlled and uncontrolled. Buyer hereby agrees to indemnify, defend and hold Supplier, its vendors and/or subcontractors harmless from and against any and all claims, damages, expenses or liabilities resulting from or connected with the foregoing."

6. "...Buyer waives and shall require its insurers to waive all right of recovery against Seller or Seller's supliers and subcontractors of every tier for physical damage to or loss or destruction of any property at _____, whether such damage, loss or destruction occurs during construction or thereafter and whether such damage, loss or destruction results from a nuclear incident or from any other cause. This waiver will not affect Seller's obligations under the warranty provided herein to _____ (e.g. correct defects in workmanship and materials); however, this waiver shall apply with respect to damage arising as a consequence of such defects. In the event Buyer covers damages from a third party based on losses at _____ resulting from the hazardous properties of source, special nuclear or by-product material, as those materials are defined in the Atomic Energy Act of 1954, as amended, Buyer shall indemnify Seller and its suppliers and subcontractors of every tier against claims by such third party which are based on Buyer's recovery of such damages."

7. "...Except to the extent Purchaser is or would be compensated by insurance required to be secured by Purchaser under the clause entitled "Insurance By Purchaser", the Purchaser indemnifies and holds harmless the Company against all losses, claims, damages or liabilities arising out of or based upon bodily injury (including death at any time resulting therefrom) and loss of or damage to property occurring prior to completion of the work and due to the negligence of the Company, its suppliers or subcontractors, provided such bodily injury (including death at any time resulting

therefrom) and loss of or damage to property does not result from or is not caused in whole or part directly or indirectly by nuclear reaction, nuclear radiation, or radioactive contamination, whether controlled or uncontrolled.

"The Purchaser indemnifies and holds harmless the Company, its suppliers and subcontractors against all losses, claims, damages or liabilities arising out of or based upon bodily injury (including death at any time resulting therefrom) and loss of or damage to any property located on or off the site whenever or wherever occurring, when due to other than negligence of the Company, its suppliers, or subcontractors, or, regardless of negligence, when resulting in whole or part directly or indirectly from nuclear reaction, nuclear radiation, or radioactive contamination, whether controlled or uncontrolled."

CONSEQUENTIAL DAMAGES

A supplier should also exclude all types of consequential damages due to the "nuclear energy hazard" and possibly due to all perils, even losses that are caused by the supplier's negligence. The consequential damages for a nuclear facility can be orders of magnitude greater than the physical damage to the plant. For a nuclear power plant (1,000 MWe) the cost of replacement power may range from $300,000/day to over $700,000/day. Extra Expense Insurance to cover the cost of replacement power is available to utilities only. However, the owner might not purchase Extra Expense Insurance to cover this exposure and even the maximum limit available will not cover large losses. Because of the broad form nuclear energy liability exclusion endorsement attached to most liability policies, a supplier's insurance would not respond to this type of loss either. The following are examples of typical clauses which limit supplier's/contractor's/seller's liabilities:

Limitation of Liability

1. "...In any event, except as provided in Section _____ hereof, the total liability of the Supplier and its Subcontractors arising out of this Contract shall not exceed the Contract Price."

2. "...Neither Supplier nor Subcontractor shall be responsible to the Participants in contracts or in

tort (including negligence) for loss of use of equipment or plant, expenses involving cost of capital, loss of profits or revenue, cost of purchase or replacement power, including additional expenses incurred in using existing power facilities, or for claims of Participant's customers."

3. "...Under no circumstances shall Supplier, its officers, agents, or employees or its subcontractors, or suppliers of any tier, be liable to any Participant for any losses or damages in the nature of partial or complete loss of use of the Project or other generating facility, loss of power or cost of replacement of power, loss of interest, revenue or anticipated profits, damages incurred by any Participant for failure to meet the power requirements of its customers, or any other losses or damages of a similar nature whether or not such losses or damages are caused by Supplier's fault or negligence. Releases from liability and limitations on liabiliy expressed in this agreement shall apply even in the event of the fault or negligence of the party released or whose liability it limits.

4. "...In no event shall Supplier be liable for loss, damage or loss of use of any property or injury or death to or of persons arising out of or resulting from a nuclear incident.

   "Supplier shall not be liable for any indirect or consequential damages for or arising out of loss of use of any facility. Supplier's liability to the Company shall in no event exceed _____, actual insured liability or profit under this Agreement, whichever is greater."

5. "...A Supplier's total liability to Purchaser for all claims of any kind, whether based on contract, tort (including negligence) or otherwise, for any loss or damage arising out of, connected with, or resulting from the performance or breach of the Purchase Order as supplemented hereby shall in no case exceed the amount of the price of the specific equipment or services which give rise to the claim. In applying the monetary limitation of Supplier's total liability, such liability shall be reduced by the sum of (1) any damages paid to Purchaser by Supplier, (2) any costs incurred and settlements made by Company under the warranty

provisions of Purchaser Order as supplemented hereby, and (3) any refund of the price for the applicable equipment or services in the event of a recession; provided, however, that such liability shall not be reduced by costs incurred by Supplier under the provisions with respect to patent infringement of the Purchase Order as supplemented hereby.

"In all cases where Purchaser's claim, whether based upon contract, tort (including negligence) or otherwise, involves defective work or materials or damage resulting therefrom, Purchaser's exclusive remedies and Company's sole liability shall be those specifically provided in the warranty provisions of the Purchase Order as supplemented and limited hereby.

"In no event, whether as a result of breach of contract, tort liability (including negligence) or otherwise, and whether arising before or after Plant completion, shall Supplier be liable to Purchaser for incidental, special, consequential or penal damages of any nature, including, but not limited to, loss of use, loss of profits or revenue, inventory or use charges, cost of purchase or replacement power, interest charges or cost of capital, claims of Purchaser's customers or Plant shutdown or service interruptions.

"The provisions of this paragraph and other paragraphs of these terms providing for limitation of or protection against liability of Company shall also protect its Suppliers and shall apply to the full extent permitted by law regardless of fault and shall survive termination of the Purchase Order, whether for breach by either party or otherwise, as well as the completion of the furnishing of equipment and services thereunder."

A paper by Ken Hall entitled "Supplier's Liability for On-Site Nuclear Damage" discusses the items mentioned above in more detail. A copy of this paper is available from the Johnson & Higgins Nuclear Advisory Group.

II. THIRD PARTY BODILY INJURY (ON and OFF SITE) and PROPERTY DAMAGE (OFF SITE)

Bodily Injury (both on and off site) as well as Property Damage (off site) due to the "nuclear energy hazard" is covered by the Nuclear Energy Liability Insurance

Policy issued by ANI. If the owner has a policy covering the facility, a supplier would also be covered under the Owner's policy due to the "omnibus" wording of the definition of insured. The only facilities which are required to furnish financial protection are those which are indemnified by the NRC (reactors and spent fuel reprocessors). None of the other nuclear facilities (fuel fabricators, waste burial grounds, etc.) are required to furnish financial protection. When working at facilities, such as nuclear power plants, which are indemnified, the following sample phrases might be used to ensure that adequate coverage is in effect and will be maintained.

Nuclear Insurance (Liability)

1. "...The purchaser, on or before the time nuclear fuel is first shipped to the Site, shall with respect to the Project secure and maintain in force, or cause to be secured and maintained in force, available protection against liability arising out of, or in any way connected with, a "nuclear incident" (as defined in the Atomic Energy Act of 19854, as amended), as follows:

   "Liability insurance from American Nuclear Insurers (ANI) and/or the Mutual Atomic Energy Liability Underwriters (MAELU), or equivalent insurance hereinafter sometimes called private insurance, in such amount and in such form as shall meet the financial protection requirements of the Nuclear Regulatory Commission pursuant to Subsection 170(b) of the Atomic Energy Act of 1954, as amended.

   "A government indemnity agreement hereinafter sometimes called Government Indemnity, with the NRC as required by subsection 170(c) of the Atomic Energy Act of 1954, as amended, including any amendments thereto as may hereinafter be enacted and be applicable to any Unit.

   "The private insurance and government indemnity required pursuant to sections _____ and _____ hereof shall be maintained in effect as to each unit from the day nuclear fuel for such unit is first shipped to the Site at

which such Unit shall be located and shall be continued in effect, to the extent the same is available, for so long as such Unit is operated. Should either the private insurance or the government indemnity be cancelled or changed so as to expose Supplier or its Subcontractors to increase risk liability, Purchaser, or such other of the participants as shall be designated by them to act as project manager of operating agent for the Participants in respect of such Unit (other Participant Project Manager) shall obtain and maintain in effect similar liability insurance or indemnity protection, or both, in the maximum amount available from the governmental and private insurer on such term as Supplier and Purchaser or other Participant-Project Manager shall deem reasonable."

2. "...Owner will, without cost to Contractor, obtain and maintain an agreement of indemnification as contemplated by Section 170 of the Atomic Energy Act of 1954, as amended, and nuclear liability insurance in such form and in such amount as will meet the financial protection requirement of the NRC pursuant to Section 170 of the Atomic Energy Act of 1954, as amended.

"The agreement of indemnification and the nuclear liability insurance shall be in effect as of the date of shipment of Special Nuclear Material to the Project Site or, the date of commencement of uranium enrichment operations at the site, whichever shall occur first, and shall remain in effect during the period of operation of the facility.

"In the event that the nuclear liability protection system contemplated by Section 170 of the Atomic Energy Act of 1954, as amended, is repealed, expires, or is changed, Owner will maintain in effect during the period of operation of the facility, liability protection in types and amounts required by law or to the extent not required by law, in types and amounts consistent with the then current norm in the nuclear industry in the United States.

"In the event an agreement of indemnification is contemplated by Section 170 of the Atomic Energy Act of 1954, as amended, is not applicable to this facility the Owner will purchase nuclear liability insurance from the American Nuclear Insurers (ANI) and/or the Mutual Atomic Energy Liability Underwriters (MAELU) in types and amounts consistent with the then current norm in the nuclear industry in the United States.

3. "Prior to the date of the first shipment of nuclear fuel to the site, the Purchaser will obtain Nuclear Liability Insurance from ANI or MAELU, or both in such form and in such amount as will meet the financial protection requirements of the Nuclear Regulatory Commission pursuant to Section 170 of the Atomic Energy Act of 1954, as amended, (42 USCA Section 2210); and an Agreement of Indemnification contemplated by Section 170 of the Atomic Energy Act of 1954, as amended. Such insurance shall be continued in effect until the plant shall have been decommissioned and all radioactive materials shall have been transferred from the site and removed from any location which is under Purchaser's control or could be covered by Purchaser-procured insurance or indemnity protection required of the type described in this paragraph."

4. "The Purchaser agrees that the material, equipment and/or services to be furnished hereunder shall not be installed in, or used or operated in connection with, or in any manner associated with a nuclear or atomic energy activity or facility unless and until (a) the Purchaser shall have entered into an agreement of indemnification with the NRC, as provided under Section 170 of the Atomic Energy Act of 1954, as amended, and (b) the Purchaser shall have obtained such policy or policies of insurance or shall have provided financial protection of such type and in such amounts as the NRC shall require as a condition of its entering into the indemnity agreement referred to in (a) above. The Purchaser agrees that the Company, its suppliers and subcontractors, shall be included among the persons indemnified under (a) above, and

among the named insureds or persons protected under (b) above. The Purchaser further agrees, with respect to the insurance secured from the Nuclear Energy insurance pools to secure and maintain any and all of the amendatory endorsements available at any time which extend the insurance in terms of coverage and/or its limits of liability. The Purchaser agrees to maintain such indemnification agreement, and insurance or other financial protection in full force and effect so long as materials, equipment and/or services to be furnished hereunder shall be used."

GEN. FILES
NUCLEAR

Attached are some typical contractual clauses concerning nuclear property insurance, nuclear liability insurance, waivers and hold harmless agreements which we have seen used in contracts between a utility and a contractor or supplier. Because we are not attorneys and are unable to give specific contract recommendations, the enclosed information should serve only as a guide. As a service to clients, J&H will review any contractual wording from an insurance standpoint only. The entire contract should, of course, be reviewed by the client's attorney as it is negotiated to consider the impact that the insurance wording may have on the client's contractual position.

OVERSEAS NUCLEAR EXPOSURE

NUCLEAR LIABILITY

Depending on the country, the Supplier should structure his contract to make sure that he maximizes coverage for nuclear liability under the country's nuclear legislation. In almost all cases this would consist of making sure that in no way the Supplier can be classified as the "Operator" of the plant under the Buyer's nuclear legislation. It is a principle of the Vienna Convention that all nuclear liability is channeled to the Operator and that the Operator is absolutely liable. The Supplier would also require the Buyer to waive any right of recourse against the Supplier.

To assist a supplier in their contract negotiation, we have a fairly comprehensive file of nuclear legislation in most countries and would be happy to provide copies of the legislation as necessary.

PROFESSIONAL LIABILITY

As we read the nuclear legislation of most countries, which incorporates the principles of the Vienna Convention, it appears that the professional liability exposure of the Supplier with regard to nuclear incidents would be the responsibility of the Operator who is absolutely liable.

PROPERTY DAMAGE

Most countries limit the application of their nuclear legislation to Third Party Bodily Injury on and off the nuclear power plant site and Third Party Property Damage off the nuclear power plant site all due to the "nuclear hazard". Although there is normally a nuclear property pool to cover the owner for the "first party" damage to the plant, the limits of this coverage are quite low. In most countries, there is no business interruption coverage and a substantial deductible is required. Therefore, the on-site nuclear damage exposure is a problem because it is not covered by the nuclear legislation or the conventional property insurance. Suppliers normally negotiate a hold harmless agreement to cover this area which typically includes at least the following points:

1. The nuclear hold harmless should take effect as soon as any nuclear fuel is shipped to the project site.

2. The hold harmless should cover property damage including, but not limited to, damage to or loss of use of the site, the equipment, the plant or any part thereof.

3. The hold harmless is normally phrased in such a way so as to hold the Supplier harmless and indemnify the Supplier against any and all claims for property damage.

4. The hold harmless is normally limited to claims resulting from a nuclear incident.

5. Some sellers repeat in a separate clause (outside the Hold Harmless clause) the fact that they shall not be responsible for any on-site property damage.

6. Some suppliers also attempt to negotiate a hold harmless and indemnification agreement covering all damage on the nuclear power plant site (including nuclear damage) as well as bodily injury to any persons arising out of the nuclear energy hazard.

7. Suppliers also ask that the Buyer waive their right of recovery against the Supplier.

Of course, there may be further considerations that may be addressed depending on the parties and situation involved.

NUCLEAR INSURANCE AVAILABILITY

An endorsement to the Nuclear Energy Liability Foreign Coverage Policy (Supplier's and Transporter's Form) has recently been developed which, when attached, provides coverage for the nuclear incidents outside the United States similar to the coverage provided by the domestic Nuclear Energy Liability Policy (Supplier's and Transporter's Form). The maximum limit available is $25,000,000.

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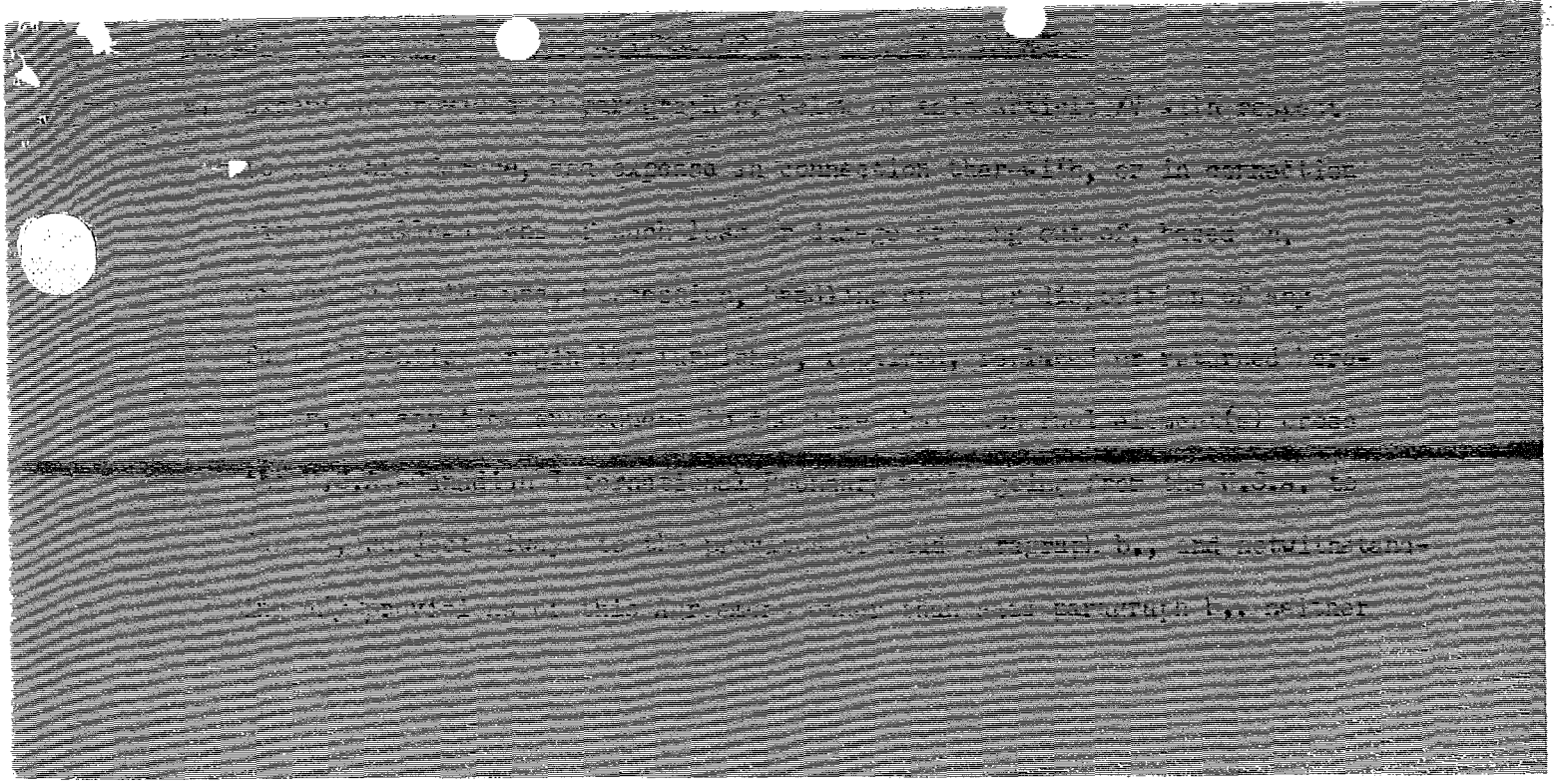

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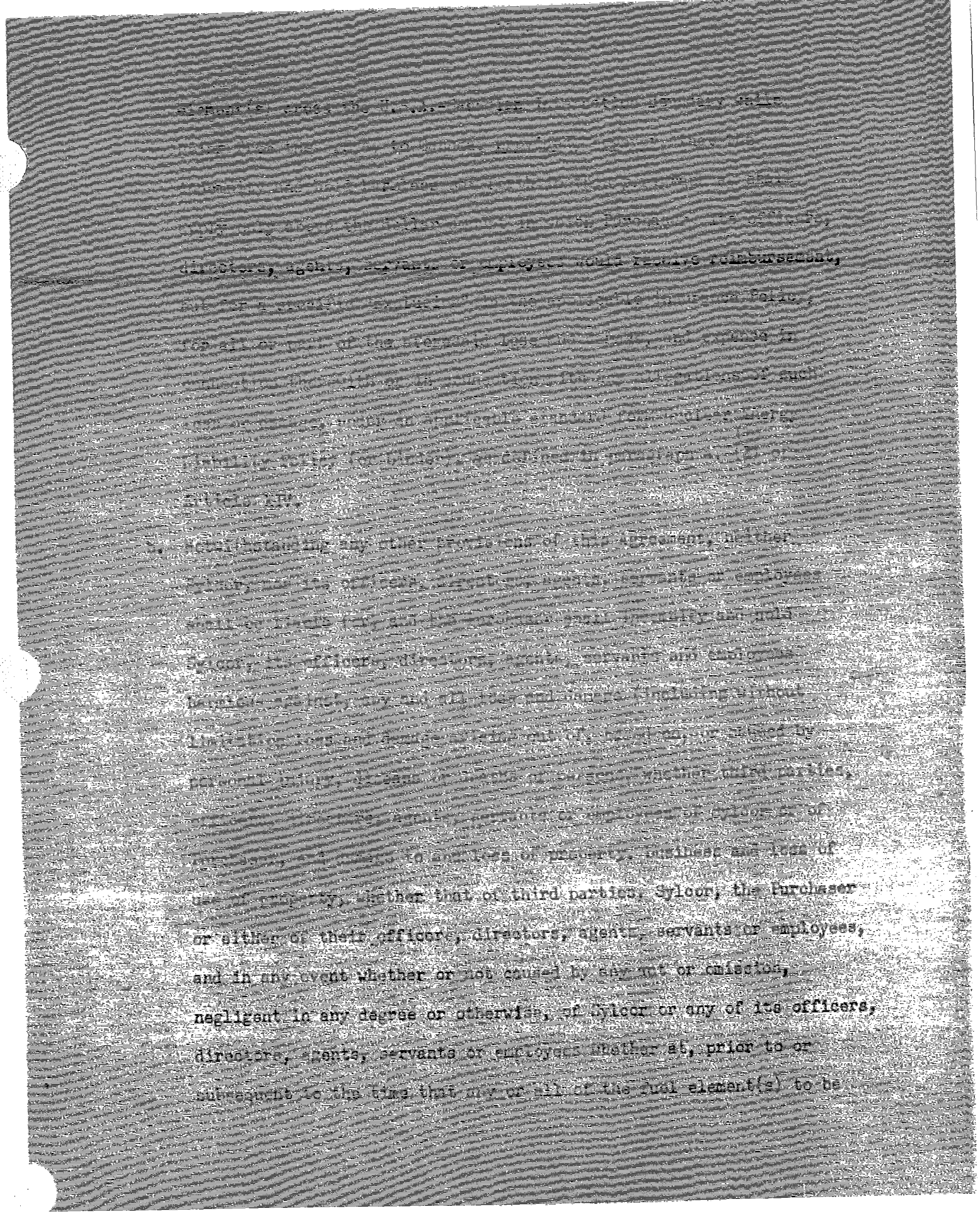


across the U.S.A.-Canadian International Boundary while going from Canada to the U.S.A. and until such time as such returned element(s) may be shipped back to Purchaser and cross the U.S.A.-Canadian International Boundary while going from the U.S.A. to Canada and whether or not caused by any act or omission, negligent or any degree or otherwise, of Purchaser or any of its officers, directors, agents, servants or employees whether at or prior to the time that any or all of said returned fuel element(s) cross the said Boundary while going from Canada to the U.S.A. or subsequent to such time but prior to the time that they cross said Boundary going from the U.S.A. to Canada.

c. Without limitation to the indemnity coverage provided in paragraphs a. and b. above, respectively, of this Article XV, the provisions of said paragraphs a. and b. are intended to and shall be construed to apply both during and after the performance of work under this contract and/or the delivery of any portion of the fuel elements to be provided hereunder, irrespective of whether or not any nuclear energy liability policy required to be carried or is carried by the respective indemnitee, indemnitees or any other person, at any or any other time, and shall apply to any and all damage, and expense in connection therewith or in connection with any allegations of such loss or damage, as provided in said respective paragraphs a. and b., whether nuclear or non-nuclear in nature and whether arising out of, based on, or caused by nuclear or non-nuclear causes.

d. Except to the extent that it may be indemnified and held harmless by the other party hereto under the provisions of paragraphs a. through c., above, of this Article XV, each of the parties hereto agrees to and hereby does

...waive any right to consequential damages of any kind whatsoever against the other party hereto, including without limitation the right to claim punitive, exemplary or treble damages, but without the right to claim ...loss of such party's property, business or loss of use of property, ...damage to the work or property of third parties, or any losses of such first party or of the other party, for which such first party may be held ...liable, or any costs or expenses of removal or reinstallation of any of the ...items furnished hereunder from or into any building, equipment, machinery or other system in which they may be incorporated.

ARTICLE XVI - INDEMNITY AND ASSISTANCE

As a condition to enforcement of the obligations provided in Articles X and XV above, each party hereto, with respect to any claim or action involving ...liabilities against which it or any of its officers, directors, agents, ...consultants or employees will be defended, indemnified or held harmless by the other party hereto, shall give prompt notice in writing to such other party of any such claim or action of which it has knowledge and shall furnish ...promptly to such other party copies of all pertinent papers received by it with respect to any such claim or action, shall tender to such other party the ...defense of any such claim or action to the extent that such first party would otherwise have control thereof and to the extent of such other party's interest therein, and shall (at such other party's expense, by proper ...arrangement) assist such other party in the settlement or defense of such claim or action and furnish such evidence in its possession as may be required by such other party in the settlement or defense of such claim or action. No cost or expenses shall be voluntarily incurred in any event pursuant to said Article X, XV or this Article by either party hereto for the account of the ...other party hereto without the prior consent of such other party.

This Agreement may be terminated [illegible] by Purchaser at any time upon fifteen (15) days written notice [illegible] to the following provisions:

a. Purchaser shall accept delivery of the terminated items in accordance with this Agreement and pay at contract prices (or in the event there are no contract prices, then a reasonably allocable portion of the total purchase price) for all such items which are completely manufactured and allocable to this Agreement at time of termination.

b. Sylcor shall cancel any outstanding orders, subcontracts, or vendor agreements placed under this Agreement, and relating to the terminated portion thereof, upon receipt of termination notification hereunder.

c. Purchaser shall pay all costs, direct or indirect, including without limitation salesmen's commissions, engineering and general plant costs and [illegible] charges, which have been incurred under the terminated portion of such agreements [illegible] which have not been delivered to Purchaser, have not been completed at the time of termination plus a reasonable profit (but in no event shall the profit, [illegible] exceed the purchase price of such items which would have been if they had been completed). In order to reduce such costs, Sylcor will, subject to such rules and regulations, and as agreed by Purchaser in writing, attempt to divert [illegible] to other orders [illegible].

[illegible]

Purchaser shall assume entire responsibility and liability for and shall indemnify and hold Sylcor, its officers, directors, agents, servants and employees harmless against, any damage to, loss of use, loss or use of Sylcor business or property and against every claim against Sylcor, including but not limited to all expenses in connection therewith (including but not limited to expenses of settlement or litigation), arising, directly or indirectly, out of any nuclear incident (which term, as used in this article, shall mean any occurrence causing bodily injury, sickness, disease or death, or loss of, damage to or loss of use of property or contamination of property, arising, directly or indirectly, out of the nuclear, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof during the time that Purchaser is responsible for such items under the terms of this Agreement. Purchaser's responsibility for such items shall begin upon delivery of such items to Purchaser [illegible] and shall continue until [illegible]

(2) any enforcement in and by any of the foregoing Courts of any such judgment or award rendered against Purchaser or the State of Portugal.

Purchaser further represents and warrants that, under the Constitution and governing laws of Portugal and the authority under which it is acting in connection with or proceeding may, with the waiver and consent, as hereinafter provided in paragraph (b) of this Agreement, (b) [illegible] of the State of Portugal, all [illegible] and enforcement against it or the State of Portugal, all [illegible] in paragraph (a) of this Article III.

[illegible] enforcement of the [illegible] and [illegible] in paragraph (a) of this Article III, [illegible] very plain assets [illegible] [illegible] of the assets [illegible] shall make available to Purchaser [illegible] construction and [illegible] maintenance expenses [illegible] [illegible] Purchaser shall not be liable for the payment of any sum agreed upon by Sylcor in settlement of any claim unless Purchaser has consented to such settlement.

d. Subject to the provisions of Paragraphs c, d, and e, of Article II of this Agreement, the remedies of Purchaser shall be limited to the following:

(1) To those expressly provided for in Article VI or X, respectively, of this Agreement with respect to any failure of Sylcor to perform any of its obligations under these respective Articles;

In the event of non-delivery or any material delay in delivery of [illegible] of the items to be furnished hereunder [illegible] upon [illegible] to Sylcor, to terminate this Agreement [illegible] to charge [illegible] the difference between [illegible] price of such items and the cost of replacing such items [illegible] bidding on the open market at the time such notice [illegible] given to Sylcor.

Sylcor shall not be liable, in any event, and Purchaser agrees to [illegible] any right or claim against Sylcor, under or in [illegible] this Agreement, or in connection with any of the items furnished or to be furnished hereunder, for either (1) consequential or special damages of any nature whatsoever, or (2) recovery of any nature whatsoever in excess of the contract price of the specific items hereunder which are affected or involved, reduced by any payments made or due and costs incurred by Sylcor with respect to such items pursuant to Articles VI and X of this Agreement. It is intended and agreed that there shall be included, by way of example but not limitation, within the waiver of consequential and special damages provided for in the immediately preceding sentence any right to claim in tort (including but not limited to negligence in any degree), contract or otherwise against Sylcor, its officers, directors, agents, servants or employees, for damage to, loss of, or loss of use of any of Purchaser's property or business or for reimbursement or other satisfaction for any liability imposed upon, or payments made by, Purchaser to others, including but not limited to directors, officers, agents, servants, or employees of Purchaser or of Sylcor, or for any costs or expenses of removal of any of the items to be furnished hereunder from or reinstallation of replacements thereof into any building, equipment, machinery or other items in which they may be incorporated, or for disposal of any [illegible] products, all to the extent that such damage, loss, loss of use, liability, payments, costs or expenses arise in any way, directly or indirectly, out of this Agreement or out of the use, possession, handling or other disposition of any of the items to be furnished hereunder.

ARTICLE XIV - NOTICES AND REQUESTS

Any notice or request given under this Agreement shall be deemed to have been sufficiently addressed to a party when directed by Registered mail to the address set forth beside the respective party's name at the beginning of this Agreement and, unless otherwise expressly provided to the contrary elsewhere in this Agreement, in the case of Sylcor addressed to its Controller at the aforesaid address and in the case of Purchaser addressed to its [illegible] at the aforesaid address. Unless otherwise expressly provided to the contrary elsewhere in this Agreement, the date of mailing shall be deemed to be the date on which such notice or request has been given. Either party may give written notice of change of address and, after notice of such change has been received, any notice or request shall thereafter be given to said party as above provided at such changed address.

Kept if agreement needed (Annex missing)

to the time of delivery of such exhibits, Provided, however, that the indemnity and hold harmless set forth in this paragraph shall not apply to the extent that Sylcor is made whole by insurance, and provided further, that Sylcor shall have no obligation to obtain or maintain any insurance in connection with this agreement, except such insurance as may be required by the laws of the United States or of the State of New York.

b. Purchaser hereby waives any sovereign immunity which it or the State of Portugal may otherwise have and consents to the following:

(1) any action or proceeding being brought against it or the State of Portugal in any New York State, United States Federal, or Portuguese Court, otherwise having jurisdiction over the subject matter of such action or proceeding, to enforce any or all of the provisions of Paragraph (a) of this Article XIII, and judgment or award being rendered against it or the State of Portugal therein, and

(2) the enforcement, in and by any of the foregoing Courts, of any such judgment or award rendered against Purchaser or the State of Portugal.

Purchaser further represents and warrants that, under the Constitution and governing laws of Portugal and the authority under which it is acting, an action or proceeding may, with its waiver and consent, as given in the immediately preceding paragraph of this Paragraph (b) be brought against it or the State of Portugal, and judgment or award therein rendered and enforced against it or the State of Portugal, all as provided in said immediately preceding paragraph of this Paragraph (b).

c. As a condition to enforcement of the indemnity and hold harmless set forth in Paragraph (a) of this Article XIII, Sylcor shall give notice to Purchaser of every claim asserted against Sylcor promptly after Sylcor itself learns of the assertion of such claim. Sylcor shall cooperate fully and completely with Purchaser in the defense of every such claim and shall make available to Purchaser, its employees and experts for consultation and as witnesses without expense (except for out-of-pocket travel and out-of-town maintenance expenses paid to such employees). Purchaser shall not be liable for the payment of any sum agreed upon by Sylcor in settlement of any claim unless Purchaser has consented to such settlement.

d. Subject to the provisions of Paragraphs c, d, and e, of Article II of this Agreement, the remedies of Purchaser shall be limited to the following:

(1) To those expressly provided for in Article VI or X, respectively, of this Agreement with respect to any failure of Sylcor to perform any of its obligations under those respective Articles;

b. In the event of undue delay in delivery of any material delay in delivery of any of the items to be furnished hereunder, to the right, upon timely notice to Sylcor, to terminate this Agreement with respect to such items and thereupon to damages equal to the difference between the contract price of such items and the cost of replacing such items by competitive binding on the open market at the time such notice is given to Sylcor.

Sylcor shall not be liable, in any event, and Purchaser agrees to and hereby does waive any right to claim against Sylcor, under or in connection with this Agreement, or in connection with any of the items furnished or to be furnished hereunder, for either (1) consequential or special damages of any nature whatsoever, or (2) recovery of any nature whatsoever in excess of the Contract Price of the specific items hereunder which are affected or involved, reduced by any payments made or due and costs incurred by Sylcor with respect to such items pursuant to Articles VI and X of this Agreement. It is intended and agreed that there shall be included, by way of example but not limitation, within the waiver of consequential and special damages provided for in the immediately preceding sentence any right to claim in tort (including but not limited to negligence in any degree), contract or otherwise against Sylcor, its officers, directors, agents, servants or employees, for damage to, loss of, or loss of use of any of Purchaser's property or business or for reimbursement or other satisfaction for any liability imposed upon, or payments made by, Purchaser to others, including but not limited to directors, officers, agents, servants, or employees of Purchaser or of Sylcor, or for any costs or expenses of removal of any of the Items to be furnished hereunder from or reinstallation of replacements thereof into any building, equipment, machinery or other items in which they may be incorporated, or for disposal of any irradiated products, all to the extent that such damage, loss, loss of use, liability, payments, costs or expenses arise in any way, directly or indirectly, out of this Agreement or out of the use, possession, handling or other disposition of any of the items to be furnished hereunder.

ARTICLE XIV - NOTICES AND REQUESTS

Any notice or request given under this Agreement shall be deemed to have been sufficiently addressed to a party when directed by registered or certified mail to the address set forth beside the respective party's name at the beginning of this Agreement and, unless otherwise expressly provided to the contrary elsewhere in this Agreement, in the case of Sylcor addressed to its Controller at the aforesaid address and in the case of Purchaser addressed to its President at the aforesaid address. Unless otherwise expressly provided to the contrary elsewhere in this Agreement, the date of mailing shall be deemed to be the date on which such notice or request has been given. Either party may give written notice of change of address and, after notice of such change has been received, any notice or request shall thereafter be given to said party as above provided at such changed address.

ARTICLE XV - LIABILITY, INSURANCE, REMEDIES

A. 1. Purchaser agrees to use its best efforts to obtain, or to procure evidence that another has obtained, pursuant to Section 170 of the Atomic Energy Act of 1954, as amended from time to time, the applicable Government indemnification, provided for by said Section, against public liability arising out of or in connection with the activities in connection with which the Contract Items will be used. Purchaser shall furnish Seller with evidence of such indemnification and that all the conditions to the obtaining of such indemnification prescribed by said Section and by the AEC pursuant thereto, have been fulfilled. Without limiting the generality of the foregoing, Purchaser shall comply or submit evidence of compliance with the financial protection requirement, if any, prescribed by said Section 170 and by the AEC pursuant thereto by procuring or having procured, and submitting evidence of such procurement, from private insurance companies, and maintaining or ascertaining the maintenance of, liability insurance in a form and amount satisfactory to the AEC.

2. Anything herein to the contrary notwithstanding, if any of the Contract Items are to be used in a production or utilization facility by or on behalf of a non-profit educational institution covered by Section 170-k of the 1954 Atomic Energy Act, as amended from time to time, Purchaser in any event shall procure or have procured, and submit evidence of such procurement, from Nuclear Energy Liability Insurance Association and/or Mutual Atomic Energy Liability Underwriters a Nuclear Energy Liability Policy (Facility Form) covering any facility in which the Contract Items will be used, in an amount of at least Two Hundred and Fifty Thousand ($250,000) Dollars.

3. The evidence to be supplied under this Paragraph A shall include but not necessarily be limited to a copy of the agreement with the AEC effecting the Government indemnification specified in this Paragraph A and a certificate of insurance (or a copy of a binder) evidencing the applicable insurance coverage specified in this Paragraph A.

B. If at any time after delivery of any of the Contract Items the insurance or the Government indemnification referred to in Paragraph A above of this Article XV should cease to be in full force and effect

due to payment of claims, voluntary reduction, or otherwise.

(c) Without limitation to the provisions of Article XVI (Non-Fulfillment of Purchaser Beyond Sylcor's Control) of this Agreement, the remedies of Purchaser and the liability of Sylcor under or, directly or indirectly, in connection with this Agreement or any of the Contract Items, shall be limited to the following:

(a) To the rights of termination (and liability of Sylcor in connection therewith) expressly provided for in Article XIV (Termination) of this Agreement.

(b) To the remedies (and corresponding liability of Sylcor) expressly provided for in Article VII (Warranty) or (if applicable) Article VIII (Patents) respectively, of this Agreement.

(c) In the event of such non-delivery of, or defect in delivery of any of the Contract Items as to constitute a breach of Sylcor's obligations pursuant to Article II (Delivery), to the right, upon timely notice to Sylcor, to terminate this Agreement with respect to such item, delivery of which is or will not be accepted by Purchaser, and thereupon to damages equal to the difference between the Contract Price of such item and the cost of replacing such items by competitive bidding on the open market at the time such notice is given to Sylcor.

2. Sylcor shall not be liable, in any event, and Purchaser agrees to and hereby does waive any right to make any claim of any nature whatsoever, whether in tort (including but not limited to negligence in any degree), contract or otherwise, against Sylcor, any of Sylcor's suppliers, or any of the officers, directors, agents, servants or employees of Sylcor or any of its suppliers, under or, directly or indirectly, in connection

with this Agreement or any of the Contract Items, for either (i) consequential or special damages of any nature whatsoever, or (ii) recovery of any nature whatsoever in excess of the Contract Price of the Contract Items which are affected or involved reduced by any payments made or due and costs incurred by Sylcor with respect to such items pursuant to Articles VII (Warranty) and XI (Patents) of this Agreement. It is intended and agreed that there shall be included, by way of example but not limitation, within the waiver of consequential and special damages provided for in the immediately preceding sentence any right to make any claim of any nature whatsoever for damage to, loss of, or loss of use of any of Purchaser's property or business (including but not limited to loss of profits), or for reimbursement or other satisfaction for any liability imposed upon, or payments made by, or on behalf of, Purchaser to others, including but not limited to Sylcor or Sylcor's suppliers, or for any costs or expenses of removal of any of the Contract Items from or reinstallation of replacements thereof into any building, equipment, machinery or other items in which they may be incorporated, or for disposal of any irradiated items. The term "suppliers" as used in this subparagraph (2) shall include but not necessarily be limited to all who supply equipment, material or services to Sylcor, directly or indirectly, for use in or in connection with the Contract Items.

D. In the event that any of the Contract Items are to be used by Purchaser on or in connection with property which is not owned by Purchaser, Purchaser shall obtain from the owner of such property a waiver of any right to make any claim of any nature whatsoever, whether in tort (including but not limited to negligence in any degree), contract or otherwise, against Sylcor, any of Sylcor's suppliers, or any of the officers, directors, agents, servants or employees of Sylcor or any of its suppliers, for any damage to, loss of or loss of use of any such property or business conducted in connection therewith, which may arise, directly or indirectly, out of the possession, use, handling or other disposition by any person, including but not limited to Sylcor, its suppliers, the Purchaser and the property owner, of any of the Contract Items after delivery under the Agreement.

E. Purchaser shall not transfer possession of or title to any of the Contract Items without first obtaining from the transferee such agreements, satisfactory to Sylcor, as may be necessary to

indemnify Sylcor and to limit Sylcor's potential liability of any sort whatsoever under, or, directly or indirectly, in connection with this Agreement or any of the Contract Items, all to the same extent as if the transferee were the original Purchaser hereunder.

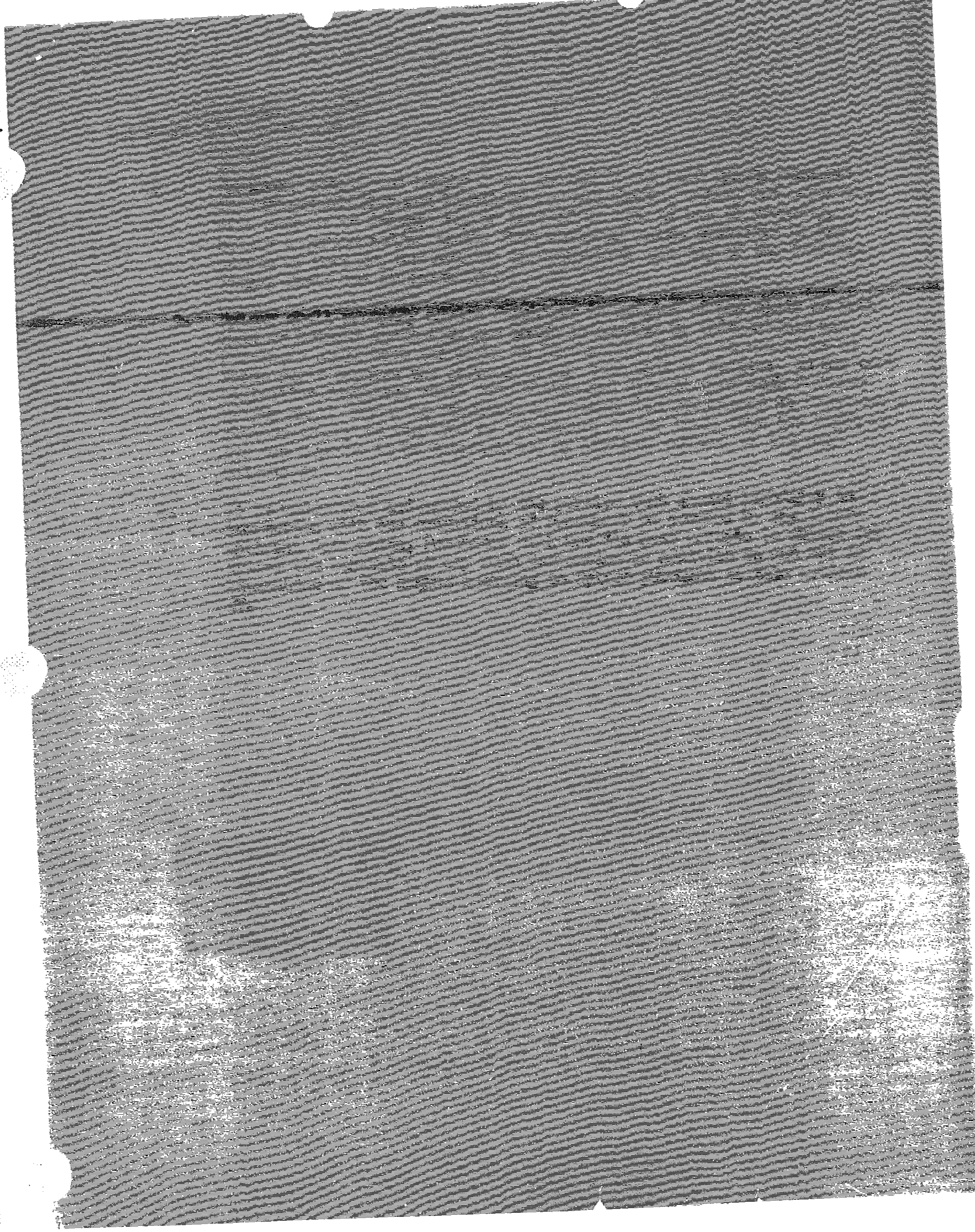
ARTICLE XVI - NON-FULFILLMENT - CAUSES BEYOND SYLCOR'S CONTROL

A. Notwithstanding any other provisions of this Agreement, Sylcor shall not be liable for any failure to fulfill any of its obligations under this Agreement if such failure results from any cause beyond its control, including but not limited to any act of God or the public enemy, any act, delay in acting or failure to act of any governmental authority or of Purchaser, fire, flood, epidemic, quarantine restriction, strike, freight embargo, unusually severe weather, insurrection or riot, and default of subcontractors due to any of such causes unless the supplies or services to be furnished by the subcontractor are reasonably obtainable from other sources in sufficient time to permit Sylcor to meet the required delivery schedule.

B. Non-fulfillment by Sylcor of any of its obligations under the Agreement due to any act, delay in acting or failure to act of Purchaser as referred to in Paragraph A of this Article XVI shall be deemed to include but not be limited to non-fulfillment by Sylcor due to (1) any failure of Purchaser to fulfill any of Purchaser's obligations under this Agreement, (2) use by Sylcor of any materials, parts or equipment furnished by Purchaser or to Purchaser's drawings, designs, specifications or other instructions, (3) Sylcor's complying with any drawings, designs, specifications or other instructions of Purchaser, (4) compliance with any drawings, designs, specifications or other instructions of Purchaser not being feasible, and in any case whether or not such act, delay in acting or failure to act is due to causes beyond the control of Purchaser.

C. In the event that failure of Sylcor to fulfill any of its obligations under this Agreement results from any cause beyond the control of Sylcor, including but not limited to any of the causes specified in Paragraph A. above of this Article XVI, and subject to the provisions of Article XIV (Termination) of this Agreement:

1. The time for Sylcor to fulfill such obligation shall be extended for a period at least equal to the length of delays attributable to such cause and for such additional time as may reasonably be required by Sylcor's then current production schedules; and



Israel (which term as used in this Article shall include but not necessarily be limited to, the State of Israel and all department, agencies, controlled and wholly owned corporations thereof) shall assume entire responsibility and liability for and shall indemnify and hold Sylcor (which term as used in this Article XIV shall include but not necessarily be limited to the officers, directors, agents, servants and employees of Sylcor) harmless against every claim against Sylcor, including but not limited to all expenses in connection therewith (including but not limited to expenses of settlement or litigation) arising out of any nuclear incident (which term, as used in this Article, shall mean any occurrence causing bodily injury, sickness, disease or death, or loss of, damage to or loss of use of property or of any person or property, arising, directly or indirectly, out of the radioactive, toxic, explosive or other hazardous properties of any of the items to be furnished hereunder) after the date of delivery of any of such products and in any event, whether or not arising, directly or indirectly, out of any act or omission, negligent in any degree, wilful, or otherwise of Sylcor whether at, prior or subsequent to the time of delivery of such products, provided, however, that the indemnity and hold harmless set forth in this paragraph shall not apply to the extent that Sylcor is made whole by insurance, and provided further, that Sylcor shall have no obligation to obtain or maintain any insurance in connection with this agreement, except such insurance as may be required by the laws of the United States or of the State of New York.

As a condition to the effectiveness of the above indemnity and hold harmless, Sylcor shall give Israel notice of any claim asserted against it promptly after Sylcor itself learns of the assertion of such claims, and shall cooperate fully and completely with Israel in the defense of any such claim, and shall make available to Israel its employees and experts for consultation and as witnesses without expense (except for out-of-pocket travel and out-of-town maintenance expenses paid to such employees).

within such waivers, by way of example but not limitation, any rights to
[illegible] damages or [illegible] any rights to
[illegible] Israel, Israeli citizens, agents, personnel or [illegible] damages or [illegible]
[illegible] Israel to others, including but not limited to directors,
officers, agents, personnel or employees of Israel or of [illegible] for any
[illegible] expenses or removal of any [illegible] to be furnished under
[illegible] agreement from or relocation or replacement thereof into any
[illegible] equipment, machinery or other items which they may be
[illegible] or [illegible] by it [illegible] and to the
extent that such items, [illegible] expenses relate in any way, directly or indirectly, to any of the
said items to be furnished hereunder.

[illegible]

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Article 10 - Material and bodily liabilities

The C.E.A. shall hold SYLCOR, its officers, directors, agents, servants, and employees harmless against and shall assume entire responsibility with respect to any claims, proceedings and compensations, including but not limited to all expense in connection therewith, for any loss, loss of use of or damage to property or any injury to or death of persons, arising out of the items supplied (including but, not limited to their production or utilization), and sustained at any time after delivery at point of shipment indicated in article 3-2 hereinabove, by any person whatever (including but not limited to C.E.A.). It is understood and agreed that the coverage of the foregoing indemnity is intended to include

...

but not be limited to any liability of SYLCOR that may be recognized in a court of the United States of America. The word "person" as used herein shall be deemed to include but not necessarily be limited to any individual, corporation, partnership, joint stock company, trust or unincorporated organization.

15. Liability Agreement:

a. The Buyer assumes, and shall hold the Seller and its contractors, together with each of their directors, officers, agents, servants and employees, harmless from responsibility and liability for all claims, suits, and/or proceedings (including without limitation all expenses in connection therewith, settlements thereof and/or satisfaction of all judgments and/or awards therein), with respect to damage to, loss of and/or loss of use of property, injury and/or death, at any time, and from whatever cause, sustained by any person or persons, arising out of or in connection with any of the items furnished hereunder (including without limitation the use, possession, handling, processing, operation and/or other disposition of any of such items); provided, however, that the Seller shall be responsible for any loss by reason of liability imposed upon it by U. S. federal, state, or local law for damages:

1) because of injury and/or death resulting therefrom, accidentally sustained by any person or persons, and/or

2) because of accidental damage to, loss of, and/or loss of use of property

which injury and/or death, accidental damage to, loss of, and/or loss of use of property (i) arises out of or in connection with any of the items to be furnished hereunder (including without limitation the use, possession, handling, processing, operation and/or other disposition of any of such items), (ii) occurs prior to the delivery by Seller to Buyer under this contract of the particular item or items out of or in connection with which the said loss arised, and (iii) is due solely to negligence of the Seller or its contractor(s), or either of their directors, officers, agents, servants

or employees, in connection with the performance of such work, but this proviso shall not include any such injury or death to any person or persons or damage to, loss of or loss of use of any property which is due in whole or in part to any negligence of the Buyer or its contractor(s) (other than Seller and Seller's contractors), or either of their directors, officers, agents, servants, or employees (including without limitation any employee(s) paid directly by the Buyer who may be utilised by the Seller to do all or any part of the work under this contract).

b. Anything provided herein or elsewhere to the contrary notwithstanding, Seller shall not be liable for consequential damages of any sort whatsoever including without limitation the right to claim in tort, contract or otherwise against Seller, for damages to or loss of Buyer's property, business, or loss of use of property, damages to the person or property of employees of Buyer or of Seller, for which Buyer may be held liable, or any costs or expenses of removal or reinstallation of any of the items supplied hereunder from or into any building, equipment, machinery or other items in which they may be incorporated.

16. Compliance with Applicable Laws, etc.: Seller and Buyer